Annex I – Correspondence between the Offshore Game, Campbell Ogilvie, the SFA and James Mure QC

Campbell Ogilvie

Dear Mr Ogilvie,

I write for a website, The Offshore Game, a project of the Tax Justice Network dedicated to investigating the role of offshore finance in football.

We will soon be publishing an article which details your involvement in setting up the Rangers Employee Benefit Trust, and I wanted to give you the opportunity to respond to our findings before publication.

At the Lord Nimmo Smith inquiry you were the only person to give evidence in person on the introduction and administration of the Rangers Employee Benefits Trust. Two others gave written evidence.

Before the inquiry and in subsequent public statements you claimed not to know any details of how the trusts operated. You said that you had only been made aware of the existence of the employee benefits trust in 2001 or 2002 when a payment was made to you though the trust.

You understood the payment to be non contractual and only after that discovered that the trust was also making payments to players. The inquiry documents quote you as saying:

"Nothing to do with the contributions being made to the Trust fell within the scope of my remit at Rangers"

However, in a letter dated 3 September 1999 which was signed by you on behalf of the club, Rangers took control of an Isle of Man company called Montreal Limited. The company was managed by the Jersey branch of the Allied Irish Bank. We are in possession of the letter.

The letter makes it clear that the purpose of the company is to provide remuneration to a valued employee of Rangers Football Club.

On September 16th the Board of Directors of Rangers Football Club met. The minutes of this meeting, also in our possession, show that the only item of business discussed was "remuneration planning for the company's employees". The minutes noted that you had taken control of Montreal Limited on behalf of the club and the three board members present (including you) then resolved to give ownership of Montreal Limited to Craig Moore. The

transfer of the 'keys to the moneybox' was the most important transaction in the Discounted Options EBT scheme being run by Rangers.

Given that your signature is on the letter setting up Montreal, it would seem that you did in fact know about the trust and that it was being used to pay players before 2001.

In addition, the same DOS scheme was used to pay Tore Andre Flo and Ronald de Boer. In those cases the Rangers later accepted that the payments were unlawful and gave rise to a tax liability due to the existence of the side letters.

In the light of this I would appreciate it of you could respond to the following questions:

Do you dispute the account of the facts as stated above?

Why did you tell the inquiry that "Nothing to do with the contributions being made to the Trust fell within the scope of my remit at Rangers"?

In the light of our findings, can you provide a statement clarifying your role in the setting up of the Rangers EBT and Discounted Options Scheme?

By the time the Lord Nimmo Smith inquiry came to take evidence Rangers had accepted the tax liability for the Discounted Options Scheme and that the scheme was unlawful. However, the inquiry stated that they were not aware that there was any difference between the previous EBT and the EBT being litigated about in the tax tribunal. Why did you not tell the inquiry that there was in fact a key difference, that the DOS scheme had been accepted by Rangers to be unlawful?

Given what we have found, and your previous role as head of the SFA, do you think that fans of Scottish football can or should have confidence that their game was being regulated fairly and impartially?

I would be grateful if you could confirm receipt of this email and provide me with any response by the end of Monday 8 February.

SFA

From: George Turner
Sent: 18 February 2016 09:28
Subject: Rangers inquiry enquiry

Dear Darryl,

I contacted you recently about getting in touch with Campbell Ogilvie, I have yet to get a reply.

I also wanted to ask the SFA directly whether they would like to comment on the article I am writing.

As you are aware the inquiry into Rangers presided over Lord Nimmo Smith looked into whether the tax avoidance scheme, the Employees Benefit Trust, broke SPL and SFA rules.

The decision of the inquiry was that it did break SPA rules but there should be no sporting penalty, because the first tier tribunal found that in the big tax case that the scheme used by Rangers was lawful.

However, it has come to our attention that the Inquiry missed a key piece of evidence. That was that at least one of the people listed as a person of interest, Tore Andre Flo, was paid by a Discounted Options Scheme. This scheme was not a lawful tax avoidance scheme, and Rangers had accepted liability to HMRC before the start of the inquiry

At least two other players were paid using this scheme.

The SFA appear to have been aware of this, as their president Campbell Ogilvie, set up at least one of the offshore companies used in the Discounted Options Scheme when he was at Rangers, and was present at the board meeting discussing the scheme.

With that in mind, I would be grateful if you could answer the following questions.

Why did the SFA not being to the attention of the commission the existence of the DOS scheme?

Given the ongoing controversy surrounding the inquiry, should the inquiry be reopened to look at the specific issue of the DOS scheme?

It is my understanding that the inquiry looked at contracts signed with players between certain dates. After the start of the inquiry those dates were changed to exclude contracts signed with Ronald de Boer and Craig Moore. Both of these players were paid using a discounted options scheme. What role did the SFA play in the decision to exclude these players from the inquiry and why did the dates of the inquiry change to exclude these players.

I would be grateful for any answer by the end of play tomorrow, Friday 19 February.

With best wishes,
George Turner

Hi George, thank you for your email. As you are aware Campbell no longer works for the Scottish FA and any emails/letters are forwarded on to him.

Regarding your second point, we would not wish to comment.

Darryl Broadfoot
Head of Communications and
Corporate Affairs
Scottish Football Association

www.scottishfa.co.uk

James Mure QC

Dear James,

I write for a website, the offshore game, a project of the tax justice network.

I am writing because we are about to publish an article on how the Lord Nimmo Smith inquiry was mislead over the status and form of the Rangers Employee Benefits Trust.

I believe that you represented Rangers Oldco at the inquiry.

The article is not about you, but in the course of my research there is one issue that has cropped up which I would greatly appreciate your assistance on.

As you may well recall, the inquiry imposed a financial penalty on Rangers for breaking SFA rules, but did not take the course open to them and impose a sporting penalty. In short the commission decided to fine Rangers pounds not points and Rangers kept their titles.

The rational for this was that the tax avoidance scheme entered into by Rangers was lawful as was the finding of the Tax Tribunal in the "Big Tax Case" at the time.

However the commission appears to have missed an important detail. The payments made by the Rangers EBT took two forms, there was the scheme that was the subject of the Big Tax Case, but there was also another "Discounted Options Scheme" which was used to pay several Rangers players.

In this scheme, dubbed the "wee tax case" Rangers had accepted a tax liability as the scheme was considered to be unlawful.

The commission however appears to have not been aware of this scheme and are explicit in their misunderstanding. The decision notice states that they were aware of a previous Rangers EBT but were not aware of any difference in how it operated and so considered both as being the same.

The reason why I am contacting you is I am trying to understand how this misunderstanding might have occurred. Rangers Oldco must have been acutely aware of the difference in the DOS scheme and the main EBT, the failure to pay the tax liability arising from the DOS scheme was one of the main drivers of the company's liquidation.

My question is whether you were aware of the difference and if not why not? Afterall, the entire inquiry rested on how the payments were being made though the trust. To a layperson it would seem that the difference in EBT payments would have been a crucial piece of information Rangers would have had to furnish you with.

If you were aware of the differences, surely as a barrister your duty to the court comes first, and if the commission was being led led to a conclusion based on a clear error of fact, did you not have an obligation to alert the judges to that error?

I would be grateful for any advice you could provide for me on this matter.

I have contacted Mr Ogilvie, who is the main subject of my article and asked him to respond by the end of Monday 8 February. If you could provide me with any response by then too I would be hugely grateful.

To: George Turner;
Tue 02/02/2016 20:42

Dear Mr Turner,

Thank you for your inquiry.

As you may know, advocates owe all their clients a continuing duty of confidentiality. In the circumstances I am not in a position to make any comment on the matters that you raise concerning proceedings before the Commission.

Yours sincerely,

James Mure Q.C.

tax justice network

George Turner

To: James Mure
Thu 11/02/2016 17:17

Dear James,

Thank you for your reply and apologies for the length of time it has taken me to get back to you.

Perhaps I was not blunt enough in my question, which was about your obligations to the inquiry, not to your client.

I find it inconceivable that you were unaware of the reasons that your client was in liquidation.

The reasons surrounding the company's liquidation were pivotal to the inquiry.

However, the inquiry were clearly unaware that Rangers had accepted a tax liability with regard to the Discounted Options Scheme they had run with regard to at least one of the players of interest to the inquiry.

Regardless of any duty of confidentiality you had to your client, did you not have an overriding obligation to the inquiry and the judge, to ensure they were not misled on the facts, and assuming that is the case, are you able to tell me why you did not disclose that information to the inquiry?

With best wishes,

Dear Mr Turner,

As I explained in my previous message, my fundamental duty of confidentiality to all my clients is a continuing one, which exists today with the same force as it did when I acted for them. It is my professional judgment that it would be impossible to enter into any discussion of the points you raise without infringing that duty and exposing me to potential legal and professional sanctions. You should not take that judgment as indicating anything at all about the particular matters to which you refer in your message, on which as I said before I am simply not in a position to make any comment, now or in the future.

Yours sincerely,

James Mure Q.C.

Annex II – The Lord Nimmo Smith Commission decision

THE SCOTTISH PREMIER LEAGUE LIMITED

DECISION

by

THE RT HON LORD NIMMO SMITH,
NICHOLAS STEWART QC
and
CHARLES FLINT QC

the Commission appointed by Resolution of the Board of Directors of The Scottish Premier League Limited dated 1 August 2012 in relation to RFC 2012 Plc (now in liquidation) and Rangers Football Club

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Summary

[1] For the reasons which are set out in detail below the Commission has unanimously decided:

(1) Between the years 2000 and 2011 The Rangers Football Club Plc (now known as RFC 2012 Plc (in liquidation) and referred to in the decision as "Oldco"), the owner and operator of Rangers Football Club ("Rangers FC"), entered into side-letter arrangements with a large number of its professional players under which Oldco undertook to make very substantial payments to an offshore employee benefit remuneration trust, with the intent that such payments should be used to fund payments to be made to such players in the form of loans;

(2) Those side-letter arrangements were required to be disclosed under the Rules of the Scottish Premier League ("SPL") and the Scottish Football Association ("SFA") as forming part of the players' financial entitlement and as agreements providing for payments to be received by the players;

(3) Oldco through its senior management decided that such side-letter arrangements should not be disclosed to the football authorities, and the Board of Directors sanctioned the making of payments under the side-letter arrangements without taking any legal or accountancy advice to justify the non-disclosure;

(4) The relevant SPL Rules were designed to promote sporting integrity, by mitigating the risk of irregular payments to players;

(5) Although the payments in this case were not themselves irregular and were not in breach of SPL or SFA Rules, the scale and extent of the proven contraventions of the disclosure rules require a substantial penalty to be imposed;

(6) Rangers FC did not gain any unfair competitive advantage from the contraventions of the SPL Rules in failing to make proper disclosure of the side-letter arrangements, nor did the non-disclosure have the effect that any of the registered players were ineligible to play, and for this and other reasons no sporting sanction or penalty should be imposed upon Rangers FC;

(7) As noted in the Commission's earlier decision made on 12 September 2012 there is no allegation that the current owner and operator of the club, The Rangers Football Club Limited ("Newco"), contravened the SPL Rules or could be held responsible for any breach by Oldco;

(8) In all the circumstances the Commission has imposed a fine of £250,000 on Oldco.

The Commission's remit

[2] By Resolution of the Board of Directors ("the Board") of The Scottish Premier League Limited ("the SPL") dated 1 August 2012 we were appointed respectively as Chairman and members of a Commission in terms of a Notice of Commission, a draft of which was on that date approved by the Board, all in terms of section G of the Rules of the SPL ("the Rules"). SPL Rules G1.1 and G1.2 provide:

> "G1.1 The Board and, where appointed by the Board, a Commission, shall have the power of inquiry into all financial, contractual and other arrangements within, between and/or amongst Clubs and Players and all matters concerning compliance with the Financial Disclosure Requirements and into all matters constituting or pertaining to any suspected or alleged breach of or failure to fulfil the Rules by any Club, Club Official and/or Player or any matter considered by the Board or, where appointed by the Board, a Commission, to be relevant to an Adjudication or an Appeal and every Club and Club

Official and Player shall be liable to and shall afford every assistance to the Board or, as the case may be Commission, as may be requested or required of it or him.

G1.2 Subject to Rules G1.3 and G1.4, the Board and, where appointed by the Board, a Commission, shall (i) have the power of determination as to whether there has been a breach of and/or failure to fulfil the Rules and in Adjudications and Appeals; and (ii) may exercise such of the powers set out in Rules G6.1 and G6.2 as it shall think appropriate."

[3] Rules G1.3 and G14 are not relevant for present purposes. Annex B to the Rules sets out Rules of Procedure which govern the proceedings of this Commission and other bodies appointed in terms of the Rules (any such body being referred to as a "Tribunal").

History

[4] Rangers Football Club was founded in 1872 as an association football club. It was incorporated in 1899 as The Rangers Football Club Limited. In 2000 the company's name was changed to The Rangers Football Club Plc, and on 31 July 2012 to RFC 2012 Plc. We shall refer to this company as "Oldco".

[5] The SPL was incorporated in 1998. Its share capital consists of sixteen shares of £1 each, of which twelve have been issued. Oldco was one of the founding members of the SPL, and remained a member until 3 August 2012 when the members of the SPL approved the registration of a transfer of its share in the SPL to The Dundee Football Club Limited. Each of the twelve members owns and operates an association football club which plays in the Scottish Premier League ("the League"). The club owned and operated by Oldco played in the League from 1998 until 2012 under the name of Rangers Football Club ("Rangers FC"). Throughout this period, Oldco was also a member of the Scottish Football Association ("the SFA"), the governing body of the sport in Scotland.

[6] When the SPL was first formed, a controlling interest in Oldco was held by David (from 2007 Sir David) Murray through the medium of Murray MHL Limited, part of the Murray Group of companies. On 6 May 2011 the controlling shareholding was acquired by Wavetower Limited, a newly incorporated company formed for the purpose of the acquisition, and controlled by Craig Whyte. Oldco experienced financial difficulties, and on 19 March 2012 the Court of Session made an administration order and appointed Paul John Clark and David John Whitehouse, both of Duff & Phelps Limited, as joint administrators, with effect from 14 February 2012 (the date of their original, invalid appointment). Oldco is now in liquidation; a winding up order was made by the Court of Session on 31 October 2012, and Malcolm Cohen

and James Stephen, both of the accountancy organisation BDO, were appointed joint interim liquidators.

[7] On 14 June 2012 a newly incorporated company, Sevco Scotland Limited, purchased substantially all the business and assets of Oldco, including Rangers FC, by entering into an asset sale and purchase agreement with the joint administrators. The name of Sevco Scotland Limited was subsequently changed to The Rangers Football Club Limited. We shall refer to this company as Newco.

[8] Newco was not admitted to membership of the SPL. Instead it became the operator of Rangers FC within the Third Division of the Scottish Football League ("the SFL"). It also became an associate member of the SFA. These events were reflected in an agreement among the SFA, the SPL, the SFL, Oldco and Newco, which was concluded on 27 July 2012.

The Notice of Commission

[9] The Notice of Commission sets out lists of players, referred to as "Specified Players", and "Issues for Enquiry into and Determination by the Commission" ("the Issues"). The full terms of the Notice of Commission are set out in the Annex hereto. For the sake of clarity, we shall here simply summarise the Issues.

[10] The Issues may be divided into four main chapters, the first three of which relate respectively to the periods:

- 23 November 2000 to 21 May 2002 (period 1),
- 22 May 2002 to 22 May 2005 (period 2)
- 23 May 2005 to 3 May 2011 (period 3).

The division into those three chapters within that period 2000-2011 reflects changes in the Rules of the SPL and the SFA in force from time to time, as set out below. Broadly speaking, the Issues in the first three chapters allege that Oldco and Rangers FC breached the relevant Rules of the SPL, and also those of the SFA (breach of which constitutes a breach of Rules of the SPL), by failing to record "EBT Payments and Arrangements", as defined below, in the contracts of service of the Specified Players and/or other Players and by failing to notify them to the SPL and the SFA. We also note one Issue in the third chapter (Issue 3(c) in the Notice of Commission, read together with the concluding words of Issue 3(b)), directed only against Rangers FC, alleging that the club was in breach of the Rules by playing ineligible players.

The fourth chapter alleges that during the period:

- 15 March 2012 to 1 August 2012 (period 4)

Oldco (then in administration) and Rangers FC, in breach of the relevant Rules of the SPL, failed to assist the SPL and to respond to requests for documents in relation to payments by Oldco to Rangers players. The Notice of Commission was served on Oldco, Newco and Rangers FC by letters dated 2 August 2012.

Aspects of the procedure prior to and at the hearing

The preliminary hearing

[11] After sundry procedure, we held a preliminary hearing on 11 September 2012 to consider certain issues that had been raised in correspondence on behalf of both Oldco and Newco. We had every reason to expect that there would be representation on behalf of each of them, but during the afternoon of 10 September letters were received from Michael McLaughlin of Messrs DWF Biggart Baillie on behalf of both Oldco and Newco stating that he had been instructed by each of them that it would not appear or be represented at the preliminary hearing and did not intend to take part in any further procedure.

[12] We nevertheless proceeded to consider the preliminary issues, and on 12 September 2012 we made the following decision:

> "The Commission has considered all the preliminary issues raised in the list submitted by Newco and points raised in letters from solicitors acting for Newco and for Oldco. It has decided:
>
> 1. The Commission will proceed with its inquiry in the terms of the Notice of Commission and will now set a date for a hearing and give directions.
>
> 2. Oldco and Rangers FC, who are named in the Issues contained in the Notice of Commission and alleged to have been in breach of Rules, will continue to have the right to appear and be represented at all hearings of the Commission and to make such submissions as they think fit.
>
> 3. Newco, as the current owner and operator of Rangers FC, although not alleged by the SPL to have committed any breach of Rules, will also have the right to appear and be represented at all hearings of the Commission and to make such submissions as it thinks fit.
>
> 4. Written reasons for this decision will be made available in due course."

[13] Once we had announced our decision on 12 September we proceeded, after discussion, to make the following directions:

> "Further to the decision made today we make the following procedural orders:

1. We set a date for a hearing to commence on Tuesday 13 November 2012 with continuations from day to day as may be required until Friday 16 November 2012. We will also allocate Tuesday 20 and Wednesday 21 November 2012 as additional dates should any further continuation be required.

2. We direct that the solicitors for The Scottish Premier League Limited lodge any documents, additional to those already lodged, together with an outline argument and a list of witnesses by 4 pm on Friday 19 October 2012.

3. We direct that Oldco, Newco or any other person claiming an interest and wishing to appear and be represented at the hearing give intimation to that effect and lodge any documents together with an outline argument and a list of witnesses, all by 4 pm on Thursday 1 November 2012.

4. We direct that intimation of the aforesaid decision and of these directions be made to the solicitors for Oldco and Newco."

The period between the preliminary and main hearings

[14] Written reasons were indeed made available, and we refer to them for their terms. They set out, in more detail than is required here, the events preceding the preliminary hearing. They also give reasons for disposal of certain of the preliminary issues which are no longer live. We decided, in brief, that:

> (1) While it was a member of the SPL Oldco was contractually bound to the SPL (and the other members) to comply with its Rules, and was liable to sanctions as provided by the Rules in the event of a breach;
>
> (2) It remained so liable even after it had ceased to be a member of the SPL;
>
> (3) Rangers FC was liable to sanctions as provided by the Rules in the event of a breach while it was owned and operated by Oldco; and
>
> (4) There were sanctions which could be imposed in terms of the Rules which were capable of affecting Rangers FC as a continuing entity now owned and operated by Newco.

We do, however, for convenience repeat in this decision some of the material from those written reasons which is relevant for present purposes. They concluded:

> "We wish to emphasise that, as is plain from our decision and directions of 12 September, the door remains open for Oldco and Newco to appear and be represented at the hearing in November. We would invite each of them to reconsider, in light of what we have written above, the decision they took on 10 September not to participate in the proceedings."

[15] Rod McKenzie of Messrs Harper Macleod LLP, the solicitors for the SPL, duly complied with paragraph 2 of the above procedural orders. No indication was given that Oldco or Newco

intended to appear at the hearing on 13 November. In the event, for unexpected reasons beyond the control of the Commission or the parties, it was not possible for the hearing to proceed, and by order dated 6 November the Chairman discharged it. A fresh date for the hearing was thereafter fixed for 29 January 2013 and following days. By order dated 7 December 2012 the Chairman directed that the solicitors for the SPL lodge any documents, additional to those already lodged, together with a further outline argument and list of witnesses, by 4.00 p.m. on Tuesday 15 January 2013. The order set out a list of questions to which the Commission wished to find specific answers in the further outline argument. After an extension of the deadline for lodging this, it was lodged on 17 January 2013.

[16] Meanwhile, no intimation was received on behalf of either Oldco or Newco that it wished to appear and be represented at the hearing. It came, therefore, as a surprise – but not an unwelcome one – that on 24 January 2013 Mr McLaughlin intimated that he had now received formal instructions from Oldco in respect of the hearing on 29 January, that his client would be represented at the hearing, that James Mure QC had been instructed on Oldco's behalf, and that they would both appear at the hearing. In addition to this intimation, a written note of argument for Oldco was lodged on 25 January.

The main hearing

[17] On 29 January 2013 the SPL was represented, as before, by Rod McKenzie of Messrs Harper Macleod LLP, and Oldco was represented by Mr Mure, accompanied by Mr McLaughlin. Mr Mure explained it was only recently that the liquidators had been able to take stock of the position, and to decide that Oldco should after all be represented. The Commission reviewed the procedure to date, together with the matters which had been decided at the preliminary hearing, and explained that it would not allow further argument on those matters. Mr Mure accepted this.

[18] The Commission also referred to paragraphs 3 and 4 of the list of preliminary issues which had been before it at the preliminary hearing, to the effect that the SPL was, by its conduct, barred from seeking the imposition of sanctions, or at least of a particular sanction, in the event of a breach or breaches of the Rules being established. For the reasons given at paragraph [53] of our earlier written reasons, we reserved these preliminary issues to be reconsidered, if necessary, at a later stage. Mr Mure informed us, however, that they were no longer to be argued, so we shall say no more about them.

[19] The reason why the decision, albeit belated, of Oldco to appear and be represented was not unwelcome was that from the outset the Commission was anxious that there be a proper contradictor, in order to assist us in our task of ensuring that the case for the SPL on both merits

and sanction was appropriately tested and that all contrary arguments were advanced. We were nevertheless concerned that Mr Mure was not instructed to appear for Newco as well as Oldco. At paragraph [46] of our previous written reasons we stated:

> "The Rules clearly contemplate the imposition of sanctions upon a Club, in distinction to a sanction imposed upon the owner or operator. That power must continue to apply even if the owner and operator at the time of breach of the Rules has ceased to be a member of the SPL and its undertaking has been transferred to another owner and operator. While there can be no question of subjecting the new owner and operator to sanctions, there are sanctions which could be imposed in terms of the Rules which are capable of affecting the Club as a continuing entity (even though not an entity with legal personality), and which thus might affect the interest of the new owner and operator in it."

We reminded Mr Mure of this and invited him to consider with Mr McLaughlin, who has acted for Newco throughout, whether they should seek instructions to appear for it also.

[20] On 30 January, before he was called on to present his case in response to that of the SPL, Mr Mure informed us that Newco was now re-entering appearance and that he was instructed for it as well as for Oldco. We are glad that Newco reconsidered the decision taken on 10 September 2012 not to participate in the proceedings.

[21] The order of events at the hearing, after preliminary discussion, was straightforward. The Rules of Procedure of the SPL make provision in part 2 for hearing procedures, but in part 1 Rule of Procedure 1.4 provides:

> "Notwithstanding these Rules of Procedure, a Tribunal shall have the power to regulate the hearing procedures adopted by it and in so doing any [*sic*] may deviate from the hearing procedures in part 2 of these Rules of Procedure as it considers appropriate and expedient so as to dispose of any matter before it justly and expeditiously."

In exercise of the power conferred by this provision, we decided, after hearing submissions about the procedure, to call on Mr McKenzie first to present the case for the SPL, including at the outset the calling of the witnesses he had listed, on both merits and sanction. We next called on Mr Mure to present his case in response for both Oldco and Newco on both merits and sanction. We finally gave each of them an opportunity to reply on any new matter raised by his opponent. This adversarial procedure resulted in an excellent discussion, and we are grateful to both Mr McKenzie and Mr Mure for their assistance. In this Decision we take full account of each of their submissions, although we do not wish to overburden it by repeating them at length.

The approach to evidence

[22] Rule 2.6 of the SPL Rules of Procedure provides:

> "A Tribunal shall not be bound by any formal rules of evidence and may accept evidence in any form. However it shall be entitled to accord to evidence such weight as seems to the Tribunal proper having regard to the quality of the evidence and the reliability and credibility of same."

We are accordingly entitled in terms of this rule to proceed on the basis of hearsay evidence. This is reinforced by the provisions of section 1(1) of the Civil Evidence Act 1995.

[23] Adopting this approach, the evidence available for our consideration includes that of witnesses, contemporaneous documents and the narrative of evidence and findings in fact made by the First-tier Tribunal (Tax) ("the Tax Tribunal") in *Murray Group Holdings & others* v *The Commissioners for Her Majesty's Revenue and Customs* ("HMRC"), Appeal No SC 3113-3117/2009. We shall discuss our approach to this evidence in the course of this decision. And we shall proceed on the basis of the facts which we hold to be established by the evidence before us, and on nothing else.

Standard and burden of proof

[24] As in all civil proceedings, the standard of proof of any matter of fact, and of any inference to be drawn from any fact or set of facts, is proof on the balance of probabilities; that is to say, that the evidence establishes that it is more likely than not that the fact or inference in question is the case. The burden of proof of the Issues rests on the SPL throughout.

[25] There was discussion during the hearing as to whether there is a burden of proof in relation to sanction, in the event that any breach of the Rules is established, and if so on which party it rests. In our view the burden lay on the SPL to prove (on the balance of probabilities) material factors which might affect sanction, such as whether a particular breach had given Rangers FC a significant competitive advantage. Subject to that, the question of sanction is a matter for the exercise of our discretion, in light of any relevant considerations advanced by either party.

Judgment reserved

[26] At the conclusion of the hearing we announced that we would take time to consider our decision, full reasons for which would be issued in writing in due course. This is now our unanimous decision and the reasons for it. All three members of the Commission have contributed to its preparation.

The Articles and Rules of the SPL and SFA: General

[27] It is now appropriate to quote some of the provisions of the Articles of the SPL. Article 2 contains definitions which, so far as relevant are:

> "Club means the undertaking of an association football club which is, for the time being, entitled, in accordance with the Rules, to participate in the League
> ...
> Company means The Scottish Premier League Limited
> ...
> League means the combination of Clubs known as the Scottish Premier League operated by the Company in accordance with the Rules
> …
> Member means a person who or which is the holder of a Share
> ...
> Rules mean the Rules for the time being of the League
> ...
> Share means a share of the Company and Share Capital and Shareholding".

[28] Article 97 provides:

> "97. Each Member shall be responsible for the discharge of the obligations and duties and shall be entitled to the benefits and rights accruing under and in terms of the Rules of and to the Club which it owns and operates."

[29] It is also appropriate to quote certain of the SPL Rules. Rule I1 provides definitions of various terms in the Rules. Of these, we refer to the following:

> Club means an association football club, other than a Candidate Club, which is, for the time being, eligible to participate in the League and, except where the context otherwise requires, includes the owner and operator of such club
> ...
> Company means The Scottish Premier League Limited
> ...
> Contract of Service means a contract of service for a Player in the standard form of the League and/or SFL and references to any particular type of Contract of Service shall be construed accordingly
> ...
> League or Scottish Premier League means the combination of association football clubs comprising the Clubs known as The Scottish Premier League
> ...
> Player means a player who is or has been a Professional Player or Amateur Player of a Club
> ...
> Registration means the registration of a Player with the League to a specified Club in accordance with Section D of the Rules and the words Register and Registered shall be construed accordingly".

It should be noted that this definition of "Club" is wider than that in the Articles, as it includes its owner and operator.

[30] Rule A7.1.1, in force at all material times, provides:

> "A7.1.1 Membership of the League shall constitute an agreement between the Company and each Club, and between each of the Clubs, to be bound by and to comply with:
>
> (a) these Rules and the Articles of Association;
>
> (b) the SFA Articles and the statutes and regulations of UEFA and FIFA;…".

[31] Rule A7.2, in force at all material times, provides:

> "A7.2 Such agreement shall have effect from the date of the Club's admission to the League and terminate upon the Club ceasing to be a member thereof (but without prejudice to any rights or claims which may have arisen or arise in respect of circumstances prior to such date and to any Rules which, by their terms, establish rights and obligations applicable after such date)."

[32] SFA Article 5.1(b) provides:

> "All members shall:- … (b) be subject to and shall comply with these Articles and any … regulations … promulgated by the Board [of the SFA]…;".

[33] It can be seen from these provisions that every member of the SPL, being also a member of the SFA, is bound by a nexus of provisions having contractual effect to comply with the Articles and Rules of each body, and is liable to sanction for any breach of either at the instance of the SPL.

The Employee Benefit Trust (EBT) Scheme

Definition in the Notice of Commission

[34] Issues 1 to 3 (except for Issue 3(c)) allege, in essence, that the Rules of the SPL and SFA relating to disclosure were breached by non-disclosure of "EBT Payments and Arrangements". This expression is given the following definition:

> "Payments made by or for Rangers PLC into an employee benefit trust or trusts for the benefit of Players, including the Specified Players, employed by Rangers PLC as Professional Players, Registered and/or to be Registered as Professional Players with the Scottish Premier League and Playing and/or to Play for Rangers FC in the Scottish Premier League and payments made by or for Rangers PLC into a sub-trust or sub-trusts of such trust or trusts of which such Players were beneficiaries, payments by such trust or trusts and/or sub-trust or sub-trusts to such Players and/or for the benefit of such Players and any and all arrangements, agreements and/or undertakings and the like or similar relating to or concerning any of such Players and payments."

Outline of the Scheme

[35] As we have said, a controlling interest in Oldco was held by David Murray through the medium of Murray MHL Limited, part of the Murray Group of companies. Murray Group Management Limited (MGM) provided management services to the companies of the Murray Group. By deed dated 20 April 2001 MGM set up the Murray Group Management Remuneration Trust (the MGMRT). (We note that the MGMRT was preceded by the Rangers Employee Benefit Trust, but we are not aware that they were different trusts. We shall treat them as a continuous trust, which we shall refer to throughout as the MGMRT.) Thereafter, 108 sub-trusts were established in name of individual employees of companies in the group. Most of these employees were Specified Players, as set out in the Notice of Commission annexed hereto. Such trusts are commonly referred to as employee benefit trusts ("EBTs").

[36] We were provided with an outline, which we did not understand to be disputed, of the steps which were generally taken in the case of Specified Players. The precise form of these arrangements may have varied over the years, but the general scheme of the arrangements adopted is set out in the next paragraph.

[37] First, separately from and in addition to his contract of employment, Oldco gave a written undertaking to a Specified Player:

> (1) that it would make fixed sum payments to the MGMRT either unconditionally, except as to continuing registration with Rangers FC, on a specified date or dates or on the occurrence of a specified event or events related to or connected with playing in an official match;
>
> (2) that it would recommend to the Trustees of the MGMRT that they establish a sub-trust, appoint the Specified Player as protector of the sub-trust and transfer to the sub-trust sums equal to the payments to be made by Oldco to the MGMRT.

This undertaking was set out in a document addressed to the Specified Player, commonly referred to as a "side-letter".

Secondly, Rangers FC made payments pursuant to the terms of the undertaking to the MGMRT.

Thirdly, Rangers FC recommended to the Trustees that they establish a sub-trust in respect of the Specified Player, that they transfer the specified contributions to that sub-trust and that they appoint the Specified Player as protector of that sub-trust.

Fourthly, the Trustees established a sub-trust in respect of a Specified Player, transferred the payments received from Rangers FC to that sub-trust and appointed the Specified Player as protector of that sub-trust.

Fifthly, the Specified Player nominated the beneficiaries of the sub-trust.

Sixthly, the Specified Player applied for, and was granted, a loan or loans from the sub-trust, generally of the same amount as the payments made in terms of the undertaking; or alternatively the Specified Player might leave part or all of the contributions in the trust for the benefit of his nominated beneficiaries.

The introduction and administration of the scheme

[38] Evidence about the introduction and operation of the EBT scheme came from the following sources: (1) Campbell Ogilvie, who was called as a witness for the SPL; (2) Andrew Dickson, who was not called as a witness, but was interviewed by Mr McKenzie, in the presence of Mr McLaughlin on 7 June 2012, and a transcript of whose interview was produced; and (3) Douglas Odam, who was not called as a witness but whose witness statement was tendered by Mr Mure.

[39] Campbell Ogilvie is currently president of the SFA. He was employed by Oldco from 1978 until 2005. He was initially employed as assistant secretary, and became company secretary in 1979. He became an executive director of Oldco in 1989, but remained as company secretary until 2002. Mr Odam took over the role of company secretary until he left in 2003. Mr Ogilvie dealt with aspects of football administration at Rangers until late 2002 or early 2003. Mr Dickson then assumed responsibility for all football administration. From 1998 until the time when Mr Ogilvie ceased to deal with football administration, Mr Murray (as he then was) took the lead in negotiating player transfers and player contracts. Until the early 1990s the relative documents were prepared by Mr Ogilvie, and from then on they were dealt with by Mr Odam.

[40] Mr Ogilvie learnt about the existence of the MGMRT in about 2001 or 2002, because a contribution was made for his benefit. He understood that this was non-contractual. Although as a result he knew about the existence of the MGMRT, he did not know any details of it. He subsequently became aware, while he remained director of Oldco, that contributions were being made to the MGMRT in respect of players. He assumed that these were made in respect of the players' playing football, which was the primary function for which they were employed and

remunerated. He had no involvement in the organisation or management of Oldco's contributions to the MGMRT, whether for players or otherwise. He said:

> "I assumed that all contributions to the Trust were being made legally, and that any relevant football regulations were being complied with. I do not recall contributions to the Trust being discussed in any detail, if at all, at Board meetings. In any event, Board meetings had become less and less frequent by my later years at Rangers."

He also said:

> "Nothing to do with the contributions being made to the Trust fell within the scope of my remit at Rangers".

However it should be noted that Mr Ogilvie was a member of the board of directors who approved the statutory accounts of Oldco which disclosed very substantial payments made under the EBT arrangements.

[41] Mr Odam was employed by Oldco from 1989 until 2003, initially as a finance controller. He was appointed Financial Director in about the late 1990s. By then, he had taken over from Mr Ogilvie the responsibility for the preparation and signing of player contracts. He prepared the contracts and the schedules and dealt with the process of player registration.

[42] He became aware of the MGMRT through Ian McMillan, tax manager of the Murray Group. The scheme had been introduced to the Murray Group by Paul Baxendale-Walker, and had been discussed at the Murray Group headquarters prior to being introduced to Oldco. Draft paperwork, which had previously been prepared, was passed to Mr Odam by Mr McMillan. Mr Odam then filled in the specific details in respect of an individual player, based on information supplied by Mr Murray or the football manager or both. At least initially, completed side-letters were passed back to the Murray Group for approval before Mr Odam signed them on behalf of Oldco.

[43] Mr Odam said that none of the side-letters was sent to the SPL or the SFA. He discussed this with Mr McMillan and David Horne, the Murray Group internal solicitor during the 1990s. He said:

> "My understanding at the time was that the letters were non-contractual and I did not believe that the letters had to be lodged with the football authorities as part of the player registration process. I understood that lodging the letters could have been misinterpreted as indicating a contractual commitment to the player thus potentially prejudicing the effectiveness of the [scheme]".

He also said:

> "There was a common understanding of those involved that the company was not required to register the [side-letters] as part of the player registration process because the players or other beneficiaries had no unfettered contractual entitlement arising out of the scheme and because any monies advanced to the players by a sub-trust were loans not payments. Throughout my employment with [Oldco] I was acting within my understanding of what was required by the player registration rules."

[44] Mr Odam recalled that the concept of the trust was explained to the Board of Oldco by one of Mr McMillan, Mr Murray or Mr Horne and was discussed by the Board, possibly only at one meeting. He did not recall which directors were or were not in attendance. Specific details of player contracts or EBT arrangements were not discussed at board meetings in the normal course.

[45] Mr Dickson was employed by Oldco from 1991, working in the finance department. He became the financial controller in about 1998, when Mr Odam became financial director. He became Head of Football Administration in about 2003 or 2004. By that time he was already aware of the existence of the EBT scheme. He was not involved with the negotiation of player contracts. This was done by Mr Murray, and later by Martin Bain. Mr Dickson dealt with the "mechanics" as Mr Odam had done.

[46] During the interview, Mr Dickson was shown a number of side-letters. Asked why Oldco made payments to the MGMRT pursuant to the obligation contained in the side-letter issued to a player, he said: "He was an employee of the club … He was a football player." He did not regard these as payments to the player. This was on the basis of discussions with Mr McMillan. For this reason he did not understand that the side-letters required to be notified to the football authorities.

The side-letters

[47] At the time when the Notice of Commission was prepared, incomplete information was available about the identities of all the players employed by Oldco who were in receipt of side-letters. Those players who were named in the documents then available were included in the A lists of Specified Players, while those in respect of whom other information was available were included in the B lists. The B lists were compiled from information broadcast by BBC Scotland and published on its website, together with inferences drawn from redacted side-letters disclosed by Biggart Baillie on 31 May 2012 (see below). Given that Oldco was represented at the hearing, we requested that un-redacted copies be made available in place of redacted copies of side-letters relating to Specified Players in the B lists, and this has now been done. At the hearing, Mr McKenzie indicated that, on reconsideration, the name of Tore André Flo should be

omitted from list 2A (but not from list 1A) and that of Michael Ball should be omitted from list 3A (but not from list 1A). Subject to this, we are satisfied that there is sufficient evidence that all of the Specified Players were in receipt of side-letters. It is not in dispute that none of these was at any time disclosed to the SPL or SFA.

[48] The style of side-letter used by Oldco varied from time to time. The following examples appear to us to be sufficiently representative of the range of styles:

(1) By letter dated 27 January 2003 to Jérôme Bonnissel, Martin Bain, Director of Football Business of Oldco, wrote:

> "I confirm that the Board of Rangers Football Club (the Club) will recommend to the Trustees of the Murray Group Management Remuneration Trust (MGMRT) to include you as the protector of a sub-trust and to fund this sub-trust with a total of £48,000 net, £24,000 payable in February 2003 and £24,000 payable on 1 June 2003.
>
> The Club undertakes to fund the MGMRT to the extent necessary to permit the Trustees of the MGMRT to carry out this recommendation."

(2) By letter dated 1 July 2003 to Nuno Fernando Gonçalves da Rocha (Nuno Gonçalves, known as Capucho), Martin Bain wrote:

> "I confirm that the Board of Rangers Football Club (the Club) will recommend to the Trustees of the Murray Group Management Remuneration Trust (MGMRT) to include you as the protector of a sub-trust and to fund this sub-trust with net totals as follows:
>
> 1. £600,000 in total, payable £150,000 in October 2003, £150,000 in April 2004, £150,000 in October 2004 and £150,000 in April 2005.
>
> 2. Effective from the date of this letter until 31 May 2004, £2,000 for each competitive First Team match in which you have played for the Club, the relevant amount being payable in quarterly instalments in arrears on the last business day in each of October, January, April and June during each season. In the event that there have been less than 5 matches for which payment is due in any instalment, payment in respect of the same will be deferred until the next instalment date.
>
> 3. The amount, if any, by which the cumulative amount payable in respect of bonuses in any one season is less than £100,000 net.
>
> The Club undertakes to fund the MGMRT to the extent necessary to permit the trustees of the MGMRT to carry out this recommendation. In the event that the MGMRT ceases to be available, the Club will use its best endeavours to make equivalent alternative arrangements."

(3) By letter dated 1 January 2004 to Shota Arveladze, Martin Bain wrote:

> "I confirm that the Board of Rangers Football Club (the Club) will recommend to the Trustees of the Murray Group Management Remuneration Trust (MGMRT) to include you as the protector of a sub-trust and to fund this sub-trust with net totals as follows:
>
> 1. £990,000 in total, payable £190,000 in March 2004, £200,000 in October 2004 and 2005, and £200,000 in April 2005 and 2006.
>
> 2. Effective from the date of this letter until 31 May 2006, £1,000 for each competitive First Team match in which you have played for the Club, the relevant amount being payable at the end of seasons 2003/04, 2004/05 and 2005/06.
>
> The Club undertakes to fund the MGMRT to the extent necessary to permit the trustees of the MGMRT to carry out this recommendation. In the event that the MGMRT ceases to be available, the Club will use its best endeavours to make equivalent alternative arrangements.
>
> This letter supercedes [*sic*] the letter dated 1st September 2001 from Douglas Odam."

(4) By letter dated 21 August 2008 to Steven Davis, Martin Bain wrote:

> "I confirm that the Board of Rangers Football Club (the Club) will recommend to the Trustees of the Murray Group Management Remuneration Trust (MGMRT) to include you as the protector of a sub-trust and to fund this sub-trust with a total of up to £1,200,000 net.
>
> This amount will be payable in insatallments [*sic*] of £160,000 in August 2008 and £140,000 in February 2009, £150,000 in August 2009, 2010 and 2011 and February 2010, 2011 and 2012 or earlier at the Club's sole discretion, subject to you being a registered player with the Club on each due date.
>
> The Club undertakes to fund the MGMRT to the extent necessary to permit the trustees of the MGMRT to carry out these recommendations."

It can be seen that each of these side-letters contains an undertaking by Oldco to the Specified Player "to fund the MGMRT". A similar undertaking is found in every other side-letter before us and it is clear to us (as we believe it must have been to anyone at Oldco with even a basic grasp of legal matters) that the undertaking was contractually binding as between Oldco and the player.

[49] On any view, the total annual amount contributed by Oldco to the MGMRT was substantial. In the statutory accounts of Oldco, they were included under the heading of "Staff Costs", along with wages and salaries and certain other costs. The relationship between the cost of such contributions and that of wages and salaries appears from the following table:

Year to 30 June	Wages and salaries £'000	Contributions to EBT £'000
2000	30,160	Nil
2001	29,595	1,010
2002	28,541	5,176
2003	25,040	6,791
2004	20,587	7,252
2005	17,764	7,241
2006	16,704	9,192
2007	17,064	4,988
2008	28,207	2,291
2009	24,908	2,360
2010	23,667	1,358

The notes to each of the statutory accounts stated that the MGMRT "was established to provide incentives to certain employees". It is apparent from the whole evidence available to us that the great majority of these contributions were made for players.

[50] It is clear to us that the reason why side-letters were issued to players, in addition to their contracts of employment, was that they were employed by Oldco to play football. Many side-letters contained a provision that Oldco would recommend to the trustees of the MGMRT to fund a sub-trust "subject to you being a registered Rangers player on the due date" and a provision for payment of specified amounts "for each competitive First Team Match in which the player starts or…for each competitive First Team Match in which the player enters the field of play as a substitute": we refer, for example, to the side-letter to Gregory Vignal dated 4 August 2004.

[51] It is also clear to us that the undertaking contained in a side-letter was regarded as a very significant part of the player's total remuneration package. For example, following the enactment of section 26 of and Schedule 2 to the Finance Act 2011, by letter dated 3 May 2011 to Steven Davis, Martin Bain wrote:

> "On 21 August 2008 you were given a letter of undertaking that certain recommendations would be made to the Trustees of the [MGMRT] by the Board of Rangers Football Club. Such recommendations would have resulted in further contributions to the sub-trust of which you are protector of £450,000 over and above those already made.
>
> Unfortunately, the law has changed and the older arrangement now carries no benefits at all. Instead, therefore the Board propose to make additional payments of £312,000 in May 2011 and £312,000 on 31 August 2011 and 28 February 2012 directly to you,

> subject to you being a registered Rangers player on these dates. It's the Board's understanding that such payments will be subject to deductions for Income Tax and National Insurance contributions, with the net result being that you will receive payment of the amount which would have gone into the Trust. I trust you will find this acceptable."

A similar letter was written on the same date to Saša Papac.

The decision of the Tax Tribunal

[52] A dispute arose between HMRC and five companies in the Murray Group, including Oldco. The issue between them was "whether the payments into trust or the benefits taken by the employee fall to be taxed as *emoluments of their employment*, with PAYE and NIC liabilities arising for the employer" (emphasis added): Tax Tribunal majority decision, paragraph 3. The five companies appealed to the Tax Tribunal against assessments to tax by HMRC. In due course, by decision released to the parties on 29 October 2012 and published on 20 November 2012, the Tax Tribunal, by a majority, substantially allowed the appeals. Thereafter, leave was granted to HMRC to appeal against this decision, and on 4 February 2013 it was announced that an appeal had been lodged.

[53] We wish to emphasise that the issues before this Commission as to alleged contraventions of the SPL Rules are very different from the questions of tax law which the Tax Tribunal was required to decide. As stated, they were concerned with the expression "emoluments". Crucial to the decision of the majority was that they regarded the loans – for present purposes, loans to Specified Players – as repayable.

At paragraph 208 they said:

> "The format spoken to was of a contract of employment, with remuneration paid subject to PAYE and NIC and additionally a 'side-letter' providing for a discretionary trust payment. We consider that the side-letter's obligation does not amount to an *emolument*. Again it falls within the description of 'a discharge of an employer's obligation to an employee'." (emphasis in original).

By the words "discretionary trust payment" we understand the majority to have meant "payment into a discretionary trust". At paragraph 218 they said:

> "The form of the loan document is sufficient in our view to create a liability to repay… That the loans were recoverable, on whatever basis, appears to us to be critical… If they have not been paid over absolutely, then they are not taxable *emoluments*." (emphasis in original)

In their findings of law at paragraph 232, they stated:

> "3. The sums advanced to the employees of the Appellants by way of loan in terms of the relative loan documents, were made in pursuance of discretionary powers and remain recoverable and represent debts on their estates.
>
> 4. The sums advanced by the Appellant companies into the principal trust, whether on payment thereto, or on payment to a sub-trust, or thereafter by way of loan to the employee, were not at any time held absolutely or unreservedly for or to the order of the individual employee."

[54] In contrast, as is apparent from the Notice of Commission, we are concerned with the expressions "*financial entitlement*" and "*payment*". The Tax Tribunal's findings in fact are not binding on us: see *Secretary of State for Trade and Industry* v *Bairstow* [2003] ECWA Civ 321. As previously indicated, we are free to treat those findings in fact as hearsay evidence in the present case, and to give them such weight as we think appropriate. But as will be seen, we do not find it necessary to take issue with any of those findings in fact.

Rules referred to in Issues 1 to 3: Disclosure

[55] We here set out and discuss the provisions of the Rules which are applicable to Issues 1 to 3, with the exception of Issue 3(c), read together with the concluding words of Issue 3(b), which we discuss below under the heading "Eligibility of Players".

Issue 1: period from 23 November 2000 to 21 May 2002

[56] The only Rule referred to in Issue 1 is SPL Rule D10.2.3, in effect prior to 23 May 2005. This provided:

> "The Contract of Service between the Player and the Club shall state the Player's full financial entitlement from the Club, including signing-on fees, additional lump sum payments, remuneration, bonus payments, removal assistance and benefits in kind. In any dispute between the Player and the Club, the remuneration contained in the Contract of Service shall be deemed to be the Player's complete entitlement. Any Club failing to detail a Player's full financial entitlement in the Contract of Service shall be dealt with as the Board may decide."

Issue 2: period from 22 May 2002 to 22 May 2005

[57] The Rules referred to in Issue 2 are SPL Rule D10.2.3, SPL Rule A7.1, SFA Article 12.3, SFA Procedures Rule 2.2.1 and SFA Procedures Rule 4. SPL Rule A7.1 and SPL Rule D10.2.3 are quoted above.

[58] SFA Article 12.3, in effect from and including 22 May 2002 provides:

> "Furthermore, all payments, whether made by the club or otherwise, which are to be made to a player solely relating to his playing activities must be fully recorded within the

relevant written agreement with the player prior to submission to the Scottish FA and/or the recognised football body of which his Club is in membership."

[59] SFA Procedures Rule 2.2.1, in effect from and including the season 2002/03, provides:

"Unless lodged in accordance with Procedures Rule 2.13 a Non-Recreational Contract Player Registration Form will not be valid unless it is accompanied by the contract entered into between the club concerned and the player stating all the terms and conditions in conformity with the Procedures Rule 4."

[60] SFA Procedures Rule 4, in effect from and including the season 2002/03, provides:

"All payments to be made to a player relating to his playing activities must be clearly recorded upon the relevant contract and/or agreement. No payments for his playing activities may be made to a player via a third party."

Issue 3: period from 23 May 2005 to 3 May 2011

[61] The Rules referred to in Issue 3 are SPL Rule D9.3, SPL Rule D1.13, SPL Rule A7.1 SFA Article 12.3, SFA Procedures Rule 2.2.1 and SFA Procedures Rule 4. (Issue 3(c) also refers to SPL Rule D1.11, which we discuss below under a separate heading.) SPL Rule A7.1, SFA Article 12.3, SFA Procedures Rule 2.2.1 and SFA Procedures Rule 4 are quoted above.

[62] SPL Rule D9.3, in effect from and including 23 May 2005, provides:

"No Player may receive any payment of any description from or on behalf of a Club in respect of that Player's participation in Association Football or in an activity connected with Association Football, other than in reimbursement of expenses actually incurred or to be actually incurred in playing or training for that Club, unless such payment is made in accordance with a Contract of Service between that Club and the Player concerned."

SPL Rule D1.13, in effect from and including 23 May 2005 provides:

"A Club must, as a condition of Registration and for a Player to be eligible to Play in Official Matches, deliver the executed originals of all Contracts of Service and amendments and/or extensions to Contracts of Service and all other agreements providing for payment, other than for reimbursement of expenses actually incurred, between that Club and Player, to the Secretary [of the SPL], within fourteen days of such Contract of Service or other agreement being entered into, amended and/or, as the case may be, extended."

The proper approach to construction of these Rules

[63] In considering the expressions "financial entitlement" and "payment" in the provisions quoted above - which appear to us to be the key expressions - we start with the proposition that, as already explained, these provisions are all contractually binding on the members of the SPL. It was not in dispute before us that contractual provisions such as this require to be construed in a manner which is consistent with the context in which they are used and the purpose which the parties using them intended to fulfil. In a case recently decided in the Supreme Court, *Lloyds*

TSB Foundation for Scotland v *Lloyds Banking Group Plc* [2013] UK SC 3, Lord Mance said in paragraph 21 that "the proper approach is contextual and purposive". He cited *Prenn* v *Simmonds* [1971] 1 WLR 1381, in which Lord Wilberforce said at pp 1383 to 1384:

> "We must…enquire beyond the language and see what the circumstances were with reference to which the words were used, and the object, appearing from those circumstances, which the person using them had in view."

[64] Clearly, the expressions "financial entitlement" and "payment" must be construed in the context of the relevant Articles and Rules; but in our opinion they also require to be interpreted in the wider context in order to establish their purpose and to be applied in such a way as to fulfil that purpose.

The purpose of these Rules

[65] Evidence was given by Iain Blair, the Company Secretary of the SPL. (He is also Secretary to this Commission, but no objection was made to his being called as a witness.) Part of his role involves supervising the receipt and processing of the contractual documentation disclosed by SPL member clubs in relation to players employed by those clubs. This processing involves checking that the contracts contain all of the information required by the SPL Rules. He gave evidence, which was uncontested and which we accept, about the mischief which the Articles and Rules with which we are concerned are intended to prevent, i.e. their purpose.

[66] Professional football has considerable financial and commercial significance. This arises in a number of different ways. Football clubs can have significant financial value; commercial opportunities are widely exploited through broadcasting, sponsorship, endorsement and a wide range of other means; prize money and rights fee payments can be substantial and there is extensive interest in gambling on professional football.

[67] In recognition of the need to regulate the business of professional football in order to maintain its sporting integrity the international and national associations and the professional leagues have adopted extensive measures to ensure (so far as possible) that players do not receive irregular or improper payments or benefits. Amongst such measures which have been adopted are those which require that all payments and benefits received by or for the benefit of professional footballers must be disclosed in advance to the relevant national association and league body and that all such payments and benefits must be made by the club employing the relevant player. The English Football Association, English Premier League, English Football League and Scottish Football League all have rules which require such disclosure. In an environment in which all such payments and benefits must be so disclosed in advance and must

be made or provided by the employing club it is much easier to identify irregular or improper payments or benefits which might compromise the sporting integrity of the competition.

[68] In short, the main purpose of these Articles and Rules is the promotion of sporting integrity. They also afford a protection to clubs and players in the event of dispute about a player's financial entitlement.

Issues 1 to 3: Non-disclosure

Issue 1: period 1

[69] The question we have to consider in connection with Issue 1 is whether, during the period from 23 November 2000 to 21 May 2002, by entering into EBT arrangements with Specified Players which were not detailed or recorded in their contracts of service and not disclosed to the SPL, there was a breach of SPL Rule D10.2.3 by Oldco and Rangers FC.

[70] In our opinion the answer to this question can be found on a straightforward application of Rule D10.2.3, giving the words used in it their ordinary meaning. Each side-letter issued to a Specified Player clearly constituted a contractual agreement: the unanimous view of the Tax Tribunal also was that it was an "obligation". The player had an entitlement to require Oldco to fund the main trust to the extent necessary to permit the trustees to fund the sub-trust to be established for the player. That was a contractual entitlement, constituting a financial liability on the part of Oldco to the player, and enforceable by the player. It was therefore a "financial entitlement". Accordingly, in the case of each of the Specified Players in lists 1A and 1B, the EBT arrangements were an essential element of "the Player's full financial entitlement" within the meaning of Rule 10.2.3.

Issue 2: period 2

[71] The question we have to consider in connection with Issue 2 is whether, during the period from 22 May 2002 to 22 May 2005, by entering into EBT arrangements with Specified Players which were not detailed or recorded in their contracts of service and not disclosed to the SPL or SFA, there was a breach of SPL Rule D10.2.3, SPL Rule A7.1, SFA Article 12.3, SFA Procedures Rule 2.2.1 and SFA Procedures Rule 4 by Oldco and Rangers FC.

[72] The opinion we have expressed about SPL Rule D10.2.3 in connection with Issue 1 is equally applicable to our consideration of Issue 2.

[73] SPL Rule A7.1 obliges members of the SPL to comply with the SFA Articles and its statutes and regulations. SFA Article 12.3, SFA Procedures Rule 2.2.1 and SFA Procedures

Rule 4 in effect require all payments to be made to a player relating to his playing activities to be recorded in his contract of employment and disclosed to the SFA.

[74] The key expression in SFA Article 12.3 and Procedures Rule 4 is "payments". For reasons already given, we consider it appropriate to give a purposive construction to this expression. Under the EBT arrangements Oldco was to make payments to the main trust, which were intended to be paid over to the sub-trust, the trustees of which were to advance loans to the player, as and when requested by the player. The player was to be appointed as protector of the trust, with the power to give directions to the trustees and thus to determine the identity of the beneficiaries.

[75] The common intention of the parties, and the only basis on which these terms were agreed, was that the player should take the benefit, through the trust arrangements, of the payments which Oldco was agreeing to make. If it had not been intended that the player would directly benefit from the EBT arrangements then there is no reason to believe that the player would have agreed to accept the overall financial package offered by Oldco.

[76] In those circumstances the mutual intent of the contracting parties, Oldco and the player, was that the player should receive payments from the sub-trust, which payments were to be funded indirectly by Oldco. On that basis the player was to receive "payments ... made by the club" within the meaning of SFA Article 12.3 and Procedures Rule 4. The fact that the payment was to be in the form of a loan is not material. A loan of money is made by payment of the money by the lender to the borrower. The general law is that the loan is repayable on demand (with interest), or on such terms as may be agreed; but this does not detract from the starting point being the initial payment.

[77] In the alternative, the payment by Oldco to the MGMRT itself constituted a payment received by the player. It was a payment made at the request of the player to fund a sub-trust to be established on his behalf, of which he was to be the protector and over which he would exercise control. On that basis the payment by Oldco was a payment paid for the benefit of the player and thus received by him or on his behalf.

[78] For the reasons given above the payments which Oldco agreed to make under a side-letter were payments from Oldco to the player relating, or solely relating, to his playing activities within the meaning of SFA Article 12.3 and Procedures Rule 4.

Issue 3: period 3

[79] The question we have to consider in connection with Issue 3 (except Issue 3(c)) is whether, during the period from 23 May 2005 to 3 May 2011, by entering into EBT

arrangements with Specified Players which were not detailed or recorded in their contracts of service and not disclosed to the SPL or SFA, there was a breach of SPL Rule D9.3, SPL Rule D1.13, SPL Rule A7.1, SFA Article 12.3, SFA Procedures Rule 2.2.1 and SFA Procedures Rule 4 by Oldco and Rangers FC.

[80] The opinion we have expressed about SFA Article 12.3 and Procedures Rules 2.2.1 and 4 in connection with Issue 2 is equally applicable to our consideration of Issue 3.

[81] The key expression in SPL Rules 9.3 and D1.13 is "payment". For reasons already given, we consider it appropriate to give a purposive construction to this expression. We also consider it appropriate to give it a construction which is consistent with that which we have given to the comparable SFA provisions, which use the word "payments". Our reasoning in connection with Issue 2 is therefore equally applicable to Issue 3, and we see no need to repeat it. Again, the fact that the payment was to be in the form of a loan is not material, as Rule D9.3 covers a "payment of any description".

[82] For the reasons given above, in our opinion (1) the side-letters constituted "agreements providing for payment ... between that Club and Player" within the meaning of SPL Rule D1.13, and (2) the payments which Oldco agreed to make under a side-letter were payments from Oldco to the player (a) "from or on behalf of a Club in respect of that Player's participation in Association Football" within the meaning of SPL Rule D9.3 and (b) relating, or solely relating, to his playing activities within the meaning of SFA Article 12.3 and Procedures Rule 4.

General conclusion

[83] For all these reasons, we are satisfied that breaches of the Rules have been established in terms of Issues 1 to 3, except Issue 3(c) and the concluding words of Issue 3(b), which we shall now discuss.

Issue 3(c): Eligibility of Players

[84] SPL Rule D1.11, which with its predecessor were in effect from and including 23 May 2005, provides:

> "Any Club playing an ineligible Player in an Official Match and the Player concerned shall be in breach of the Rules."

Issue 3(c) alleges that during the period from 23 May 2005 until 3 May 2011 (inclusive) Rangers FC, whilst a member of the SPL, breached Rule D1.11 by playing the Specified Players in lists 3A and 3B in official matches when those players were ineligible so to play. This requires to be

read in conjunction with the concluding passage of Issue 3(b) which alleges that Oldco and Rangers FC breached SPL Rule D1.13, as discussed above, "such that Rangers FC was in breach of a condition of the registration of such players and such players were ineligible to play in official matches for Rangers FC". Reference also requires to be made to SFA Registration Procedure Rules 2.2.1 and 4.

[85] In addressing us on Issue 3(c), Mr McKenzie sought to include a reference to period 2. Although there is a passage in the outline written argument for the SPL which may be taken to relate to period 2, Issue 3(c) and the relevant passage in Issue 3(b) both relate to period 3, from 23 May 2005 until 3 May 2011 (inclusive). No notice is given in the Notice of Commission of any comparable allegation relating to any earlier period, and for this reason we are not prepared to consider this part of the argument.

[86] Evidence was given by Alexander Bryson, Head of Registrations at the SFA, who described the registration process. During the course of his evidence he explained that, once a player had been registered with the SFA, he remained registered unless and until his registration was revoked. Accordingly, even if there had been a breach of the SFA registration procedures, such as a breach of SFA Article 12.3, the registration of a player was not treated as being invalid from the outset, and stood unless and until it was revoked.

[87] Mr McKenzie explained to us that SPL Rule D1.13 had hitherto been understood to mean that if, at the time of registration, a document was not lodged as required, the consequence was that a condition of registration was broken and the player automatically became ineligible to play in terms of SPL Rule D1.11. He accepted however that there was scope for a different construction of the rule, to the effect that, as the lodging of the document in question was a condition of registration, the registration of the player would be liable to revocation, with the consequence that the player would thereafter become ineligible to play. He accepted that no provision of the Rules enabled the Board of the SPL retrospectively to terminate the registration of the player. It became apparent from his submissions that Mr McKenzie was not pressing for a finding that Issue 3(c), together with the concluding words of Issue 3(b), had been proved.

[88] In our opinion, this was a correct decision by Mr McKenzie. There is every reason why the rules of the SFA and the SPL relating to registration should be construed and applied consistently with each other. Mr Bryson's evidence about the position of the SFA in this regard was clear. In our view, the Rules of the SPL, which admit of a construction consistent with those of the SFA, should be given that construction. All parties concerned – clubs, players and footballing authorities – should be able to proceed on the faith of an official register. This means that a player's registration should generally be treated as standing unless and until revoked.

There may be extreme cases in which there is such a fundamental defect that the registration of a player must be treated as having been invalid from the outset. But in the kind of situation that we are dealing with here we are satisfied that the registration of the Specified Players with the SPL was valid from the outset, and accordingly that they were eligible to play in official matches. There was therefore no breach of SPL Rule D1.11.

[89] For these reasons we are not satisfied that any breach of the Rules has been established in terms of Issue 3(c), taken in conjunction with the concluding words of Issue 3(b) quoted above. This is an important finding, as it means that there was no instance shown of Rangers FC fielding an ineligible player.

Issue 4: Delay in Provision of Information

The relevant Rules

[90] SPL Rule F1 provides:

> "Every Club shall keep detailed financial records and the Company shall be entitled to inspect such records and to require Clubs to provide copies of any financial or other records which the Company may reasonably require in order to enable the Company to investigate whether the Club has complied and is complying with these Rules, the Articles of Association, the SFA Articles, the UEFA Statutes and the FIFA Statutes and to ensure compliance by the Club with the same."

[91] We have already quoted Rule G1.1 in paragraph [1] of this Decision. Rule G.1.5 provides:

> "The Board, and where appointed by the Board, a Commission, may require … the production to the Board or a Commission of any books, letters and other documents or records whatsoever and howsoever kept relating to or concerning any matter in relation to which the Board, and where appointed by the Board, a Commission, shall have the power of enquiry or determination in terms of Rules G1.1 and G1.2 respectively."

The facts

[92] Issue 4 relates to events during the period when the joint administrators were in control of the affairs of Oldco. On 5 March 2012 Rod McKenzie of Harper Macleod LLP, the solicitors acting for the SPL, wrote to the joint administrators stating that the Board of the SPL had determined on 1 March 2012 to instruct an investigation relating to payments made by Oldco to players for playing football which had not been disclosed in those players' contracts of service, and in particular the use by Oldco of EBT payments and arrangements ("the investigation"). By this letter, the SPL required Oldco, as part of the investigation, to deliver copies of any and all items of documentation, communications, contract documents, notes, correspondence, emails, trust deeds, memoranda and others, including all notes of conversations and meetings in any way

concerning and relating to EBT payments and arrangements paid and/or made in respect of players whether held by Oldco or by a third party for and on behalf of Oldco, and certain other detailed information, to Harper Macleod by 5 pm on 9 March 2012.

[93] On 7 March 2012 Oldco requested an extension to the deadline for production of the required materials, and suggested a deadline of 14 March 2012. This extension was granted and the deadline for the production of the required materials was altered to 5 pm on that day. No materials were produced prior to this deadline.

[94] On 15 March 2012, Michael McLaughlin of Biggart Baillie (now DWF Biggart Baillie) emailed Harper Macleod to state that he was now instructed by Oldco, and that all future correspondence be directed to him. No materials were produced by 20 March 2012, and the SPL's solicitors reported the failure of Oldco to cooperate with the investigation to the Board.

[95] By letter dated 22 March 2012 Mr McLaughlin wrote:

> "[I]t is the Club's position that it is not compelled to intimate documents that relate to the Trust at this time."

By letter dated 28 March 2012 he stated that Oldco was willing to "provide the documentation requested as and when it becomes necessary and appropriate to do so."

[96] At a meeting on 12 April 2012 one of the joint administrators undertook on behalf of Oldco to make four binders of documentation immediately available to the SPL. This did not happen.

[97] By email of 16 April 2012, Biggart Baillie passed on a request to the Murray Group in these terms:

> "Harper Macleod has requested intimation of financial information and documentation by Rangers. Specifically we have been asked to ask the Murray Group whether or not it would be prepared to intimate to Harper Macleod, an entire set of productions from the First Tier Tax Tribunal Hearing … that relates to operation of the trusts."

By further email of 16 April 2012 Biggart Baillie told Harper Macleod that documentation held by Oldco which would fall within the SPL's request for information contained, in their view, "sensitive personal data" of current and former employees of Oldco. Biggart Baillie further stated that disclosure of the requested information might breach the Data Protection Act 1998 unless all such personal and sensitive personal data were to be redacted from the information prior to disclosure.

[98] Meanwhile, BBC Scotland came, by unknown means, into possession of what they described as "dozens of secret emails, letters and documents", which we understand were the productions before the Tax Tribunal. These formed the basis of a programme entitled "Rangers

– The Men Who Sold the Jerseys", which was broadcast on 23 May 2012. BBC Scotland also published copious material on its website. The published material included a table containing the names of Rangers players, coaches and staff who were beneficiaries of the MGMRT, and how much they received through that trust. It also listed the names of people where the BBC had seen evidence that they received side-letters. This event appears to have been the trigger for more activity in response to the SPL's request.

[99] On 31 May 2012 Biggart Baillie disclosed a number of redacted side-letters and other letters ancillary to side-letters. A total of 50 redacted letters were disclosed, 40 of which were side-letters (one being a duplicate), six were ancillary to side-letters and four related to contractual payments to Specified Players which had previously been disclosed to the SPL.

[100] The redacted side-letters provided to the SPL clearly did not comprise all the side-letters which were extant and should have been provided, as could readily be established by comparison of the redacted side-letters with the side letters listed by BBC Scotland. Moreover, there was in our opinion no justification for redaction, as it is clear from comparison between redacted and un-redacted versions that what had been redacted was the identities of players and financial information relating to them. Financial information is not included among the "sensitive personal data" listed in section 2 of the Data Protection Act, and given the nature of the applicable rules these names and financial information should have been included in the documents sent to the SPL in response to the original request on 5 March 2012. As we have said, we have now been provided, at our request but without further demur, with un-redacted copies of the side-letters.

[101] Given that disclosure of the requested players' personal data to the SPL or this commission would not have resulted in Oldco being in breach of the Data Protection Act, Oldco should have disclosed all of the requested information in un-redacted form pursuant to SPL Rules G1.1.1 and G1.5. All side-letters in respect of the Specified Players, along with all other relevant financial records, ought to have been held by or on behalf of Oldco. As such, all such materials ought to have been readily accessible and ought to have been capable of production to the SPL or Harper Macleod within a reasonable period of time. In the event, 12 weeks elapsed between the initial requirement and the production of the redacted side-letters. Moreover, Oldco was not entitled to redact any materials produced to the SPL in terms of Rule F.1. By entering a contract of service with a club, a player consents to the club producing such materials to the SPL as is necessary for the club to comply with the rules: see Rule D1.14, which provides:

> "By permitting himself to be Registered, a Player shall be deemed to have submitted himself to the jurisdiction of the Company and to the Board and to have agreed to adhere to, comply with and be subject to these Rules…".

[102] In these circumstances Oldco breached Rule F.1 by failing to provide all of the documents, information and materials specified in the letter of 5 March 2012 and by redacting the materials produced. This restricted the ability of the SPL to investigate Oldco's compliance with the SPL Rules, the SFA Articles of Association and Rules, UEFA statutes and FIFA statutes. The failure to provide the required documents, information and materials, the redaction of the limited materials produced, and the unwarranted delay in the production thereof constituted a breach by Oldco of its obligations under and in terms of Rule G1.1 to afford every assistance to the Board of the SPL, or its solicitors, in the conduct of the investigation. They likewise constituted a breach by Oldco of its obligations under and in terms of rule G1.5 to produce to the Board of the SPL, or its solicitors, in the books, letters or other documents or records whatsoever relating to EBT payments and arrangements paid or made by Oldco in respect of players.

Sanction

[103] Under SPL Rule G6.1 we have the power to impose a wide range of sanctions. Under Rule G6.1.18 we may in addition "make such other direction, sanction or disposal, not expressly provided for in these Rules". Since at the time of the hearing we had made no decision on the merits, we invited Mr McKenzie and Mr Mure to address us on various hypotheses.
Mr McKenzie stated, and we wish to emphasise, that *the SPL did not seek the imposition by us of any specific sanction*. It was a matter for the exercise of the Commission's discretion in the whole circumstances of the case. This should be borne in mind for the remainder of our discussion of the question of sanction.

Issues 1 to 3

[104] As we have already explained, in our view the purpose of the Rules applicable to Issues 1 to 3 is to promote the sporting integrity of the game. These rules are not designed as any form of financial regulation of football, analogous to the UEFA Financial Fair Play Regulations. Thus it is not the purpose of the Rules to regulate how one football club may seek to gain financial and sporting advantage over others. Obviously, a successful club is able to generate more income from gate money, sponsorship, advertising, sale of branded goods and so on, and is consequently able to offer greater financial rewards to its manager and players, in the hope of even more

success. Nor is it a breach of SPL or SFA Rules for a club to arrange its affairs – within the law – so as to minimise its tax liabilities. The Tax Tribunal has held (subject to appeal) that Oldco was acting within the law in setting up and operating the EBT scheme. The SPL presented no argument to challenge the decision of the majority of the Tax Tribunal and Mr McKenzie stated expressly that for all purposes of this Commission's Inquiry and Determination the SPL accepted that decision as it stood, without regard to any possible appeal by HMRC. Accordingly we proceed on the basis that the EBT arrangements were lawful. What we are concerned with is the fact that the side-letters issued to the Specified Players, in the course of the operation of the EBT scheme, were not disclosed to the SPL and the SFA as required by their respective Rules.

[105] It seems appropriate in the first place to consider whether such breach by non-disclosure conferred any competitive advantage on Rangers FC. Given that we have held that Rangers FC did not breach Rule D1.11 by playing ineligible players, it did not secure any direct competitive advantage in that respect. If the breach of the rules by non-disclosure of the side-letters conferred any competitive advantage, that could only have been an indirect one. Although it is clear to us from Mr Odam's evidence that Oldco's failure to disclose the side-letters to the SPL and the SFA was at least partly motivated by a wish not to risk prejudicing the tax advantages of the EBT scheme, we are unable to reach the conclusion that this led to any competitive advantage. There was no evidence before us as to whether any other members of the SPL used similar EBT schemes, or the effect of their doing so. Moreover, we have received no evidence from which we could possibly say that Oldco could not or would not have entered into the EBT arrangements with players if it had been required to comply with the requirement to disclose the arrangements as part of the players' full financial entitlement or as giving rise to payment to players. It is entirely possible that the EBT arrangements could have been disclosed to the SPL and SFA without prejudicing the argument – accepted by the majority of the Tax Tribunal at paragraph 232 of their decision – that such arrangements, resulting in loans made to the players, did not give rise to payments absolutely or unreservedly held for or to the order of the individual players. On that basis, the EBT arrangements could have been disclosed as contractual arrangements giving rise to a facility for the player to receive loans, and there would have been no breach of the disclosure rules.

[106] We therefore proceed on the basis that the breach of the rules relating to disclosure did not give rise to any sporting advantage, direct or indirect. We do not therefore propose to consider those sanctions which are of a sporting nature.

[107] We nevertheless take a serious view of a breach of rules intended to promote sporting integrity. Greater financial transparency serves to prevent financial irregularities. There is

insufficient evidence before us to enable us to draw any conclusion as to exactly how the senior management of Oldco came to the conclusion that the EBT arrangements did not require to be disclosed to the SPL or the SFA. In our view, the apparent assumption both that the side-letter arrangements were entirely discretionary, and that they did not form part of any player's contractual entitlement, was seriously misconceived. Over the years, the EBT payments disclosed in Oldco's accounts were very substantial; at their height, during the year to 30 June 2006, they amounted to more than £9 million, against £16.7 million being that year's figure for wages and salaries. There is no evidence that the Board of Directors of Oldco took any steps to obtain proper external legal or accountancy advice to the Board as to the risks inherent in agreeing to pay players through the EBT arrangements without disclosure to the football authorities. The directors of Oldco must bear a heavy responsibility for this. While there is no question of dishonesty, individual or corporate, we nevertheless take the view that the non-disclosure must be regarded as deliberate, in the sense that a decision was taken that the side-letters need not be or should not be disclosed. No steps were taken to check, even on a hypothetical basis, the validity of that assumption with the SPL or the SFA. The evidence of Mr Odam (cited at paragraph [43] above) clearly indicates a view amongst the management of Oldco that it might have been detrimental to the desired tax treatment of the payments being made by Oldco to have disclosed the existence of the side-letters to the football authorities.

[108] Given the seriousness, extent and duration of the non-disclosure, we have concluded that nothing less than a substantial financial penalty on Oldco will suffice. Although we are well aware that, as Oldco is in liquidation with an apparently massive deficiency for creditors (even leaving aside a possible reversal of the Tax Tribunal decision on appeal), in practice any fine is likely to be substantially irrecoverable and to the extent that it is recovered the cost will be borne by the creditors of Oldco, we nevertheless think it essential to mark the seriousness of the contraventions with a large financial penalty. Since Issues 1 to 3 relate to a single course of conduct, a single overall fine is appropriate. Taking into account these considerations, we have decided to impose a fine of £250,000 on Oldco.

[109] It is the board of directors of Oldco as a company, as distinct from the football management or players of Rangers FC as a club, which appears to us to bear the responsibility for the breaches of the relevant rules. All the breaches which we have found were therefore clearly committed by Oldco. We see no room or need for separate findings of breaches by Rangers FC, which was not a separate legal entity and was then part (although clearly in football and financial terms the key part) of the undertaking of Oldco. Rangers FC is of course now owned and operated by Newco, which bears no responsibility for the matters with which we are

concerned. For the reasons already given, we have decided against the imposition of a sporting sanction. In these circumstances the financial penalty lies only upon Oldco and does not affect Rangers FC as a football club under its new ownership.

Issue 4

[110] Failure to respond timeously to legitimate requests for the provision of information is a serious breach of the rules. If the football authorities are to perform their functions effectively, such requests by them must be met. In the present case, at the time that the initial request was made, and throughout the subsequent period, Oldco was in administration and the administrators were acting as its agents. The administrators had the responsibility of discharging Oldco's obligations, including those to the football authorities. They did not do so, and thus caused Oldco to be in breach of the Rules. We have decided, however, without wishing to detract from the gravity of the breach, that no separate financial penalty should be imposed on Oldco in this regard. Instead, we shall impose an admonition

Result

[111] In the result, therefore, and for all the foregoing reasons:

(1) We find the breaches in Issue 1, Issue 2, Issue 3 (except Issue 3(c) and the concluding passage of Issue 3(b) starting with "such that Rangers FC . . . .") and Issue 4 proved against RFC 2012 Plc (in liquidation), formerly The Rangers Football Club Plc.

(2) We fine RFC 2012 Plc (in liquidation) £250,000 in respect of Issues 1 to 3, and admonish it in respect of Issue 4.

(3) We make no separate finding of breach by Rangers FC and impose no penalty on it.

Publicity

[112] By Rule G7.2, it is for the Board to determine what, if any, publicity is to be given to a decision of the Board or a Commission. In our view, the present decision should be published in unredacted form as soon as it is made available, and we so recommend.

W A Nimmo Smith

(The Rt Hon Lord Nimmo Smith)

Chairman, for and on behalf of the Commission

Hampden Park, Glasgow

28 February 2013

Annex

The Scottish Premier League: **Notice of Commission**

A. Notice

The Board of the Company (defined below) has, in terms of Rule G3, appointed a Commission to inquire, in terms of Rule G1.1, into the Issues (defined below), to determine, in terms of Rule G1.2, whether there has with respect to the Issues been a breach or breaches of and/or a failure or failures to fulfil the Rules and, in the event that the Commission determines that there has with respect to the Issues been a breach or breaches of and/or a failure or failures to fulfil the Rules, to exercise such of the powers in Rules G6.1 and G6.2 as the Commission shall think appropriate.

B. Definitions

In this notice capitalised words and phrases have their defined meanings as specified in this notice and in the Rules of the Scottish Premier League.

"Company"

The Scottish Premier League Limited, Hampden Park, Glasgow, G51 2XD

"EBT Payments and Arrangements"

Payments made by or for Rangers PLC into an employee benefit trust or trusts for the benefit of Players, including the Specified Players, employed by Rangers PLC as Professional Players, Registered and/or to be Registered as Professional Players with the Scottish Premier League and Playing and/or to Play for Rangers FC in the Scottish Premier League and payments made by or for Rangers PLC into a sub-trust or sub-trusts of such trust or trusts of which such Players were beneficiaries, payments by such trust or trusts and/or sub-trust or sub-trusts to such Players and/or for the benefit of such Players and any and all arrangements, agreements and/or undertakings and the like or similar relating to or concerning any of such Players and payments.

"Issues"

The issues for inquiry into and determination by the Commission set out in paragraph C. of this notice.

"Rangers FC"

Rangers Football Club, Ibrox Stadium, 150 Edmiston Drive, Glasgow, G51 2XD

"Rangers PLC"

RFC 2012 P.L.C. (in administration) (formerly known as The Rangers Football Club plc), Ibrox Stadium, 150 Edmiston Drive, Glasgow, G51 2XD

"Specified Players 1A"

1. Tore André Flo
2. Shota Arveladze
3. Michael Ball
4. Stefan Klos
5. Russell Latapy
6. Neil McCann
7. Christian Nerlinger
8. Arthur Numan

“Specified Players 1B”

1. Alan Hutton
2. Andrei Kanchelskis
3. Barry Ferguson
4. Bert Konterman
5. William Dodds
6. Christopher Burke
7. Claudio Caniggia
8. Craig Moore
9. Fernando Ricksen
10. Lorenzo Amoruso
11. Maurice Ross
12. Ronald de Boer
13. Steven Smith
14. Tero Penttilä

“Specified Players 2A”

1. Mikel Amatrain Arteta
2. Shota Arveladze
3. Jérôme Bonnissel
4. Thomas Buffel
5. Jesper Christiansen
6. Nuno Fernando Gonçalves da Rocha
7. Dan Eggen
8. Tore André Flo
9. Stefan Klos
10. Russell Latapy
11. Peter Løvenkrands
12. Neil McCann
13. Michael Mols
14. Kevin Muscat
15. Christian Nerlinger
16. Arthur Numan
17. Dado Pršo
18. Alex Rae
19. Gavin Rae
20. Paolo Vanoli
21. Grégory Vignal

“Specified Players 2B”

1. Alan Hutton
2. Barry Ferguson
3. Robert Malcolm
4. Christopher Burke
5. Egil Østenstad
6. Fernando Ricksen
7. Jean-Alain Boumsong
8. Lorenzo Amoruso
9. Marvin Andrews
10. Maurice Ross
11. Ignacio Javier Gómez Novo
12. Ronald de Boer
13. Ronald Waterreus
14. Sotirious Kyrgiakos
15. Steven Smith
16. Steven Thomson
17. Zurab Khizanishvili

“Specified Players 3A”

1. Mikel Amatrain Arteta
2. Shota Arveladze
3. Michael Ball
4. Olivier Bernard
5. Kris Boyd
6. Thomas Buffel
7. Jesper Christiansen
8. Steven Davis
9. Brahim Hemdani
10. Peter Løvenkrands
11. Pedro Mendes
12. Kevin Muscat
13. Saša Papac
14. Julien Rodriguez
15. Grégory Vignal

“Specified Players 3B”

1. Alan Hutton
2. Carlos Cuéllar
3. Christopher Burke
4. Fernando Ricksen
5. Federico Nieto
6. Ian Murray
7. Jean-Alain Boumsong
8. Libor Sionko
9. Lorenzo Amoruso

10. Marvin Andrews
11. Ignacio Javier Gómez Novo
12. Ronald Waterreus
13. Sotirious Kyrgiakos
14. Steven Smith
15. Steven Thomson
16. Zurab Khizanishvili

C. Issues for Inquiry into and Determination by the Commission

Whether during:-

1. the period from 23 November 2000 until 21 May 2002 (inclusive) Rangers PLC, whilst a member of the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule D10.2.3 by making and/or entering into EBT Payments and Arrangements in respect of the Specified Players 1A and/or the Specified Players 1B and/or other Players employed by Rangers PLC without detailing same in the relevant Players' Contracts of Service;

2(a) the period from 22 May 2002 until 22 May 2005 (inclusive) Rangers PLC, whilst a member of the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule D10.2.3 by making and/or entering into EBT Payments and Arrangements in respect of the Specified Players 2A and/or the Specified Players 2B and/or other Players employed by Rangers PLC without detailing same in the relevant Players' Contracts of Service;

2(b) the period from 22 May 2002 until 22 May 2005 (inclusive) Rangers PLC, whilst a member of the SFA and the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule A7.1 and SFA Article 12.3 by making and/or entering into EBT Payments and Arrangements in respect of the Specified Players 2A and/or the Specified Players 2B and/or other Players where such EBT Payments and Arrangements related solely to the playing activities of each of the Specified Players 2A and/or the Specified Players 2B and/or other Players without recording such EBT Payments and Arrangements in the written agreements between each of the Specified Players 2A and/or the Specified Players 2B and/or other Players and Rangers PLC prior to submission of such written agreements to the SFA and, separately, to the Company;

2(c) the period from 22 May 2002 until 22 May 2005 (inclusive) Rangers PLC, whilst a member of the SFA and the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule A7.1, SFA Registration Procedures Paragraph 2.2.1 and SFA Procedures Rule 4 by making and/or entering into EBT Payments and Arrangements in respect of the Specified Players 2A and/or the Specified Players 2B and/or other Players employed by Rangers PLC without submitting to the SFA along with an Non-Recreational Contract Player Registration Form a contract entered into between Rangers PLC and each of the Specified Players 2A and/or the Specified Players 2B and/or other Players stating all of the terms between each of the Specified Players 2A and/or the Specified Players 2B and/or other Players and Rangers PLC recording all of the payments to be made to each of the Specified Players 2A and/or

the Specified Players 2B and/or other Players for their respective playing activities for Rangers FC;

2(d) the period from 22 May 2002 until 22 May 2005 (inclusive) Rangers PLC, whilst a member of the SFA and the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule A7.1 and SFA Procedures Rule 4 by making and/or entering into EBT Payments and Arrangements in respect of the Specified Players 2A and/or the Specified Players 2B and/or other Players to the effect of and, separately, with the intent that payments would be made via a third party to each of the Specified Players 2A and/or the Specified Players 2B and/or other Players for their respective playing activities with and for Rangers FC, such third party being the respective trusts and/or sub-trusts relating to each of the Specified Players 2A and/or the Specified Players 2B and/or other Players which were part of the relevant EBT Payments and Arrangements for each of the Specified Players 2A and/or the Specified Players 2B and/or other Players;

3(a) the period from 23 May 2005 until 3 May 2011 (inclusive) Rangers PLC, whilst a member of the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule D9.3 by making and/or entering into EBT Payments and Arrangements in respect of the Specified Players 3A and/or the Specified Players 3B and/or other Players employed by Rangers PLC whereby each of the Specified Players 3A and/or the Specified Players 3B and/or other Players received and/or had the benefit of a payment or payments from or on behalf of Rangers PLC in respect of each such Player's participation in Association Football or an activity within Association Football for Rangers FC other than in reimbursement of expenses actually incurred or to be incurred in playing or training for Rangers FC which were not in accordance with a Contract of Service between Rangers PLC and each of the Players concerned;

3(b) the period from 23 May 2005 until 3 May 2011 (inclusive) Rangers PLC, whilst a member of the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule D1.13 by making and/or entering into EBT Payments and Arrangements in respect of the Specified Players 3A and/or the Specified Players 3B and/or other Players which provided for payment other than for reimbursement of expenses actually incurred and failed to deliver agreements relative to such EBT Payments and Arrangements to the Secretary within fourteen days of such agreements being entered into and/or amended such that Rangers FC was in breach of a condition of the Registration of such Players and such Players were ineligible to Play in Official Matches for Rangers FC;

3(c) the period from 23 May 2005 until 3 May 2011 (inclusive) Rangers FC, whilst a member of the Scottish Premier League, breached Rule D1.11 by Playing the Specified Players 3A and/or the Specified Players 3B in Official Matches when those Players were ineligible so to play;

3(d) the period from 23 May 2005 until 3 May 2011 (inclusive) Rangers PLC, whilst a member of the SFA and the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule A7.1 and SFA Article 12.3 by making and/or entering into EBT Payments and Arrangements in respect of the Specified Players 2A and/or the Specified Players 2B and/or other Players

where such EBT Payments and Arrangements related solely to the playing activities of each of the Specified Players 2A and/or the Specified Players 2B and/or other Players without recording such EBT Payments and Arrangements in the written agreements between each of the Specified Players 2A and/or the Specified Players 2B and/or other Players and Rangers PLC prior to submission of such written agreements to the SFA and separately to the Company;

3(e) the period from 23 May 2005 until 3 May 2011 (inclusive) Rangers PLC, whilst a member of the SFA and the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule A7.1, SFA Registration Procedures Paragraph 2.2.1 and SFA Procedures Rule 4 by making and/or entering into EBT Payments and Arrangements in respect of the Specified Players 2A and/or the Specified Players 2B and/or other Players employed by Rangers PLC without submitting to the SFA along with an Non-Recreational Contract Player Registration Form a contract entered into between Rangers PLC and each of the Specified Players 2A and/or the Specified Players 2B and/or other Players stating all of the terms between each of the Specified Players 2A and/or the Specified Players 2B and/or other Players and Rangers PLC recording all of the payments to be made to each of the Specified Players 2A and/or the Specified Players 2B and/or other Players for their respective playing activities for Rangers FC;

3(f) the period from 23 May 2005 until 3 May 2011 (inclusive) Rangers PLC, whilst a member of the SFA and the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule A7.1 and SFA Procedures Rule 4 by making and/or entering into EBT Payments and Arrangements in respect of the Specified Players 2A and/or the Specified Players 2B and/or other Players to the effect of and, separately, with the intent that payments would be made via a third party to each of the Specified Players 2A and/or the Specified Players 2B and/or other Players for their respective playing activities with and for Rangers FC, such third party being the respective trusts and/or sub-trusts relating to each of the Specified Players 2A and/or the Specified Players 2B and/or other Players which were part of the relevant EBT Payments and Arrangements for each of the Specified Players 2A and/or the Specified Players 2B and/or other Players;

4(a) the period from and including 15 March 2012 Rangers PLC, whilst a member of the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule F1 by failing to deliver to the Company or to agents acting on behalf of Company copies of any and all items of documentation, communications, contract documents, notes, correspondence, emails, trust deeds, memoranda and others, including all notes of conversations and meetings in any way concerning or relating to any and all payments made by or on behalf of Rangers PLC to Players since 1 July 1998 which had not previously been disclosed to The Scottish Premier League Limited, including, without prejudice to the foregoing generality, all payments made by or on behalf of Rangers PLC to an employee benefit trust or trusts and/or sub-trust or sub-trusts for or in respect of Players and/or any and all such payments made by such employee benefit trust or trusts or sub-trust or sub-trusts to Players including any and all productions of whatever nature lodged for Rangers PLC and lodged by HMRC relating to Rangers PLC in the pending First Tier Tribunal proceedings known as “the Big Tax Case”;

4(b) the period from and including 15 March 2012 Rangers PLC, whilst a member of the Company, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule G1.1 by failing to afford every assistance to the Company and to agents acting on behalf of the Company as requested and required in a letter dated 5 March 2012 from agents acting on behalf of the Company and that by failing to deliver to the Company or to agents acting on behalf of the Company copies of any and all items of documentation, communications, contract documents, notes, correspondence, emails, trust deeds, memoranda and others, including all notes of conversations and meetings in any way concerning or relating to any and all payments made by or on behalf of Rangers PLC to Players since 1 July 1998, which had not previously been disclosed to the Company, including, without prejudice to the foregoing generality, all payments made by or on behalf of Rangers PLC to an employee benefit trust or trusts and/or sub-trust or sub-trusts for or in respect of Players and/or any and all such payments made by such employee benefit trust or trusts or sub-trust or sub-trusts to Players including any and all productions of whatever nature lodged for Rangers PLC and lodged by HMRC relating to Rangers PLC Rangers PLC in the pending First Tier Tribunal Proceedings known as "The Big Case" and by failing to produce to the Company or to agents acting on behalf of the Company, preferably in spreadsheet format, details comprising all payments made by or and behalf of Rangers PLC to or for the benefit of any Player since 1 July 1998 to any employee benefit trust or sub-trust, by any employee benefit trust or sub-trust and to or by any other third party, to and for the benefit of any Player since 1 July 1998, where such payment has not been made for or in terms of a Contract of Service notified to the Company and to The SFA with details of (i) name of Player; (ii) date of payment(s); (iii) amount of payment(s); (iv) method of payment(s); (v) by whom payment was made; and (vi) reason for payment(s); and

4(c) the period from and including 15 March 2012 Rangers PLC, whilst a member of the Company and the owner and operator of Rangers FC, and Rangers FC, whilst a member of the Scottish Premier League, breached Rule G1.5 by failing to deliver to the Company or to agents acting on behalf of the Company copies of any and all items of documentation, communications, contract documents, notes, correspondence, emails, trust deeds, memoranda and others, including all notes of conversations and meetings in any way concerning or relating to any and all payments made by or on behalf of Rangers PLC to Players since 1 July 1998, which had not previously been disclosed to the Company, including, without prejudice to the foregoing generality, all payments made by or on behalf of Rangers PLC to an employee benefit trust or trusts and/or sub-trust or sub-trusts for or in respect of Players and/or any and all such payments made by such employee benefit trust or trusts or sub-trust or sub-trusts to Players including any and all productions of whatever nature lodged for Rangers PLC and lodged by HMRC relating to Rangers PLC in the pending First Tier Tribunal Proceedings known as "the Big Tax Case".

D. Provisions of the Rules, Articles of Association of the SFA and SFA Registration Procedures referred to in the Issues

(i) **Rule F1**:

"Every Club shall keep detailed financial records and the Company shall be entitled to inspect such records and require Clubs to provide copies of any financial or other records

which the Company may reasonably require in order to enable the Company to investigate whether the Club has complied and is complying with these Rules, the Articles of Association, the SFA Articles, the UEFA Statutes and the FIFA Statutes and to ensure compliance by the Club with the same."

(ii) **Rule G1.1**:

"The Board and where appointed by the Board, a Commission, shall have the power of inquiry into all financial, contractual or other arrangements with and between and/or amongst Clubs and Players and all matters concerning compliance with Financial Disclosure Requirements and into all matters constituting or pertaining to any suspected or alleged breach or failure to fulfil the Rules by any Club, Club Official and/or Player or any matter considered by the Board or, where appointed by the Board, a Commission, to be relevant to an Adjudication or an Appeal and every Club and Club Official and Player shall be liable to and shall afford every assistance to the Board or, as the case may be, Commission, as may be requested or required of it, or him."

(iii) **Rule G.1.5**:

"The Board, and where appointed by the Board, a Commission, may require the attendance of any Club Official, Player and/or other person at any meeting of the Board or a Commission and/or the production to the Board or a Commission of any books, letters and other documents or records whatsoever and howsoever kept relating to or concerning any matter in relation to which the Board, and where appointed by the Board, a Commission have the power of inquiry or determination in terms of Rules G1.1 and G1.2 respectively."

(iv) **Rule D9.3**:

"No Player may receive any payment of any description from or on behalf of a Club in respect of that Player's participation in Association Football or any activity within Association Football, other than in reimbursement of expenses actually incurred or to be actually incurred in playing or training for that Club, unless such payment is made in accordance with a Contract of Service between that Club and the Player concerned." (In effect from and including 23 May 2005).

(iv) **Rule D1.11**:

"Any Club Playing an ineligible Player in an Official Match and the Player concerned shall be in breach of the Rules." (This Rule and its predecessor in effect from and including 23 May 2005).

(v) **Rule D1.13**:

"A Club must as a condition of Registration and for a Player to be eligible to Play in Official Matches, deliver the executed originals of all Contracts of Service and Amendments and/or extensions to Contracts of Service and all other agreements providing for payment, other than for reimbursement of expenses actually incurred,

between that Club and Player, to the Secretary, within fourteen days of such Contract of Service or other agreement being entered into, amended and/or, as the case may be, extended." (In effect from and including 23 May 2005)."

(vi) **Rule D10.2.3**:

"The Contract of Service between the Player and the Club shall state the Player's full financial entitlement from the Club, including signing on fees, additional lump sum payments, remuneration, bonus payments, removal assistance and benefits in kind. In any dispute between the Player and the Club, the remuneration contained in the Contract of Service shall be deemed to be the Player's complete entitlement. Any Club failing to detail a Player's full financial entitlement in the Contract of Service shall be dealt with as the Board may decide." (In effect prior to 23 May 2005).

(vii) **Rule A7.1**:

"A.7.1. Membership of the Scottish Premier League shall constitute an agreement between the Company and each Club, and between each of the Clubs, to be bound by and to comply with:- (a) these Rules and the Articles of Association; (b) the SFA Articles ….. ;" (This Rule and its predecessor A7.1.1(b) in effect from 1998)."

(ix) **SFA Article 5.1(b)**:

"All members shall: … (b) be subject to and shall comply with these Articles and any … regulations … promulgated by the Board … ;"

(x) **SFA Article 12.3**:

"Furthermore, all payments whether made by the club or otherwise which are to be made to a Player solely relating to his playing activities must be fully recorded within the relevant written agreement with the Player prior to submission to the Association and/or the recognised football body of which his Club is in membership." (In effect from and including 22 May 2002).

(xi) **SFA Registration Procedures Paragraph 2.2.1**:

"Unless lodged in accordance with Procedures Rule 2.13 a Non-Recreational Contract Player Registration Form will not be valid unless it is accompanied by the contract entered into between the club concerned and the player stating all the Terms and Conditions in conformity with the Procedures Rule 4." (In effect from and including Season 2002/03).

(xi) **SFA Procedures Rule 4**:

"All payments to be made to a player relating to his playing activities must be clearly recorded upon the relevant contract and/or agreement. No payments for his playing activities may be made to a Player via a third party." (In effect from and including Season 2002/03).

Annex III – Correspondence between AIB and Rangers

AIB Jersey

Private Client

AIBJerseytrust Limited
AIB House
25 Esplanade
St Helier
Jersey
JE1 2AB

Tel: +44 (0) 1534 883000
Fax: +44 (0) 1534 883112
Website: www.aib.je

Our ref: 155/1854760_1.DOC

8th September 2011

STRICTLY PRIVATE & CONFIDENTIAL
The Board of Directors
Rangers Football Club plc
Ibrox Stadium
150 Edmiston Drive
Glasgow
G51 2XD

Telephone: 01534 883000

By recorded delivery

Dear Sirs

Rangers Football Club plc
Montreal Limited
AIBJerseytrust Limited

In September 1999, Mr Ogilvie acting on behalf of Rangers Football Club plc ("Rangers") subscribed for the entire issued share capital of a Manx company, Montreal Limited ("Montreal"), to provide remuneration to one of its players, Mr Moore. We enclose a copy of this letter together with a copy of the minutes of a meeting of Rangers dated 16th September 1999 in which the board resolved to offer the beneficial ownership of Montreal to Mr Moore.

Since its incorporation, Montreal has been administered by AIBJerseytrust Limited ("AIBJ") which is ultimately a wholly owned subsidiary of Allied Irish Banks, p.l.c. The professional fees charged by AIBJ for the provision of directors, secretary and registered office for Montreal together with administration fees for work undertaken have always been settled by Rangers.

On 27th July 2004, my colleague Mr Matthews accompanied by a former director of AIBJ, Mrs Luxo, met with Messrs Olverman and MacMillan in Glasgow, both employees of Rangers or its holding company, Murray International Holdings Limited, to discuss Montreal and other entities under our trusteeship / management including the Rangers Football Club plc EBT ("the EBT"). The minutes of the meeting explain that EBT funds should be used to settle fees relating to Montreal.

A further meeting took place at our offices in Jersey on 16th February 2006 between Mr Matthews, Dr Boon, Mr Carney and Miss Warner, all employees of AIBJ, together with Mr MacMillan. The meeting had been called by Mr MacMillan to discuss the termination of the EBT and in relation to this, the fourth paragraph of the minutes state "*IM [Mr MacMillan] confirmed that Rangers would continue to pay these fees [Montreal].*"

Since 2009, the fees for Montreal have remained unpaid pending agreement by all parties to the termination of Montreal. On 23rd April 2010, Mr Matthews spoke with Mr MacMillan who confirmed that once the dissolution of Montreal had been agreed with Mr Moore and his advisors, Rangers would release the payment for fees owed to AIBJ in relation to Montreal. This conversation was recorded and a transcript will be prepared if necessary.

Despite telephone conversations and exchange of emails with Mr MacMillan and more recently with Mr Dixon, this debt has never been settled and the sum of £25,000 is owed to AIBJ. For completeness, we enclose a copy of Mr Matthews' letter dated 22nd July 2011 to Mr Dixon.

As a final point, Mr Moore's agent, Mr Viola, has been made aware of this matter and has confirmed that he was present with Mr Moore when this remuneration planning structure was first discussed with Rangers and that it had been agreed that Mr Moore would have no liability for ongoing management fees of Montreal by the offshore fiduciary services provider [AIBJ].

To this end, we now kindly request that the sum of £25,000 in full and final settlement of fees owed to AIBJ in relation to the services provided to Montreal is effected within the next fourteen (14) days.

We hope that this matter may be resolved amicably without the need to engage with solicitors.

Yours faithfully

James K Baudains
Managing Director
AIBJerseytrust Limited

THE
RANGERS
FOOTBALL CLUB plc
Founded 1873

DJO/sh

3 September 1999

The Secretary
Montreal Limited
PO Box 264
Union House
Union Street
St. Helier
Jersey JE4 8TQ

Dear Sir,

On behalf of Rangers Football Club plc I hereby subscribe for two £1 shares in Montreal Ltd at a subscription price of £2 and a share premium of £149,998.

The purpose of this subscription is to provide remuneration to a valued employee of Rangers Football Club plc.

Yours faithfully,

R. C. OGILVIE
SECRETARY/DIRECTOR

MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF THE RANGERS FOOTBALL CLUB PLC HELD AT IBROX STADIUM, GLASGOW ON 16 SEPTEMBER 1999 AT 10.30 AM.

PRESENT:	D. E. Murray	Chairman
	R. C. Ogilvie	Secretary
	J. MacDonald	
APOLOGIES:	H. Adam	
	D. Levy	
	I. Skelly	
IN ATTENDANCE:	D. Odam	Financial Controller

Business

The meeting was arranged to consider remuneration planning for the company's employees.

The meeting noted that the company had subscribed for two £1 shares in Montreal Limited.

It was reported that HLB Kidsons had provided advice on remuneration strategy and arrangements designed to incentivise and motivate key employees.

It was resolved to offer the beneficial ownership of the company's shareholding in Montreal Limited as a constituent part of the remuneration package for Craig Moore.

It was the Boards view that the strategy would motivate and incentivise Craig Moore in recognition of his services to Rangers Football Club plc.

There being no further business the Chairman closed the meeting.

Annex IV – Extracts from the UEFA Financial Fair Play Regulations 2010 edition

c) The name of the football club that formerly held the registration;
d) Transfer (or loan) fee paid and/or payable (including training compensation and solidarity contribution);
e) Other direct costs of acquiring the registration paid and/or payable;
f) Amount settled and payment date;
g) The balance payable at 31 December in respect of each player transfer including the due date for each unpaid element;
h) Any payable as at 31 March (rolled forward from 31 December) including the due date for each unpaid element, together with explanatory comment; and
i) Conditional amounts (contingent liabilities) not yet recognised in the balance sheet as of 31 December.

6 The licence applicant must reconcile the total liability as per the transfer payables table to the figure in the financial statements balance sheet for 'Accounts payable relating to player transfers' (if applicable) or to the underlying accounting records. The licence applicant is required to report in this table all payables even if payment has not been requested by the creditor.

7 The transfer payables table must be approved by management and this must be evidenced by way of a brief statement and signature on behalf of the executive body of the licence applicant.

Article 50 – *No overdue payables towards employees and social/tax authorities*

1 The licence applicant must prove that as at 31 March preceding the licence season it has no overdue payables (as defined in Annex VIII) towards its employees or social and tax authorities as a result of contractual and legal obligations towards its employees that arose prior to the previous 31 December.

2 Payables are those amounts due to employees or social and tax authorities as a result of contractual or legal obligations towards employees. Amounts payable to people who, for various reasons, are no longer employed by the applicant fall within the scope of this criterion and must be settled within the period stipulated in the contract and/or defined by law, regardless of how such payables are accounted for in the financial statements.

3 The term "employees" includes the following persons:

a) All professional players according to the applicable *FIFA Regulations on the Status and Transfer of Players*; and
b) The administrative, technical, medical and security staff specified in Articles 28 to 33 and 35 to 39.

4 The licence applicant must prepare a schedule showing all employees who were employed at any time during the year up to the 31 December preceding the

licence season; i.e. not just those who remain at year end. This schedule must be submitted to the licensor.

5 The following information must be given, as a minimum, in respect of each employee:

a) Name of the employee;
b) Position/function of the employee;
c) Start date;
d) End date (if applicable);
e) The balance payable as at 31 December, including the due date for each unpaid element; and
f) Any payable as at 31 March (rolled forward from 31 December), including the due date for each unpaid element, together with explanatory comment.

6 The employees schedule must be approved by management and this must be evidenced by way of a brief statement and signature on behalf of the executive body of the licence applicant.

7 The licence applicant must reconcile the total liability as per the employee schedule to the figure in the financial statements balance sheet for 'Accounts payable towards employees' (if applicable) or to the underlying accounting records.

8 The licence applicant must submit to the auditor and/or the licensor the necessary documentary evidence showing the amount payable (if any), as at 31 December of the year preceding the licence season as well as any payable as at 31 March (rolled forward from 31 December), to the competent social/tax authorities as a result of contractual and legal obligations towards its employees.

Article 51 – *Written representations prior to the licensing decision*

1 Within the seven days prior to the start of the period in which the licensing decision is to be made by the First Instance Body, the licence applicant must make written representations to the licensor.

2 The written representations must state whether or not any events or conditions of major economic importance have occurred that may have an adverse impact on the licence applicant's financial position since the balance sheet date of the preceding audited annual financial statements or reviewed interim financial statements (if applicable).

3 If any events or conditions of major economic importance have occurred, the management representations letter must include a description of the nature of the event or condition and an estimate of its financial effect, or a statement that such an estimate cannot be made.

3 By the deadline and in the form communicated by the UEFA administration, the licensee must prepare and submit a transfer payables table, even if there have been no transfers/loans during the relevant period.

4 The licensee must disclose all transfer activities (including loans) undertaken up to 30 June, irrespective of whether there is an amount outstanding at 30 June. In addition, the licensee must disclose all transfers subject to legal proceedings before a national or international sporting body, arbitration tribunal or state court.

5 The transfer payables table must contain the following information as a minimum (in respect of each player transfer, including loans):

a) Player (identification by name or number);
b) Date of the transfer/loan agreement;
c) The name of the football club that formerly held the registration;
d) Transfer (or loan) fee paid and/or payable (including training compensation and solidarity contributions);
e) Other direct costs of acquiring the registration paid and/or payable;
f) Amount settled and payment date;
g) Balance payable at 30 June in respect of each player transfer;
h) Due date(s) for each unpaid element of the transfer payables; and
i) Conditional amounts (contingent liabilities) not yet recognised in the balance sheet as of 30 June.

6 The licensee must reconcile the total liability as per the transfer payables table to the figure in the financial statements balance sheet for 'Accounts payable relating to player transfers' (if applicable) or to underlying accounting records. The licensee is required to report in this table all payables even if payment has not been requested by the creditor.

7 The transfer payables table must be approved by management and this must be evidenced by way of a brief statement and signature on behalf of the executive body of the licensee.

8 If the licensee is in breach of indicator 4 as defined in Article 62(3), then it must also prove that, as at the following 30 September, it has no overdue payables towards other football clubs as a result of transfer activities undertaken up to 30 September. Paragraphs 2 to 7 above apply accordingly.

Article 66 – *No overdue payables towards employees and/or social/tax authorities – Enhanced*

1 The licensee must prove that as at 30 June of the year in which the UEFA club competitions commence it has no overdue payables (as specified in Annex VIII) towards its employees and/or social/tax authorities (as defined in paragraphs 2 and 3 of Article 50) that arose prior to 30 June.

2 By the deadline and in the form communicated by the UEFA administration, the licensee must prepare and submit a declaration confirming the absence or existence of overdue payables towards employees and social/tax authorities.

3 The following information must be given, as a minimum, in respect of each overdue payable towards employees, together with explanatory comment:

a) Name of the employee;
b) Position/function of the employee;
c) Start date;
d) Termination date (if applicable); and
e) Balance overdue as at 30 June, including the due date for each overdue element.

4 The following information must be given, as a minimum, in respect of each overdue payable towards social/tax authorities, together with explanatory comment:

a) Name of the creditor;
b) Balance overdue as at 30 June, including the due date for each overdue element.

5 The declaration must be approved by management and this must be evidenced by way of a brief statement and signature on behalf of the executive body of the licensee.

6 If the licensee is in breach of indicator 4 as defined in Article 62(3), then it must also prove that, as at the following 30 September, it has no overdue payables (as specified in Annex VIII) towards employees and/or social/tax authorities that arose prior to 30 September. Paragraphs 2 to 5 above apply accordingly.

Article 67 – *Duty to report subsequent events*

1 The licensee must promptly notify the licensor in writing about any significant changes including, but not limited to, subsequent events of major economic importance until at least the end of the licence season.

2 The information prepared by management must include a description of the nature of the event or condition and an estimate of its financial effect, or a statement (with supporting reasons) that such an estimate cannot be made.

Article 68 – *Common provision*

If one of the other monitoring requirements as defined in Articles 64 to 67 is not fulfilled, then the Club Financial Control Panel may refer the case to the Organs for Administration of Justice, which will take the appropriate measure(s) without delay in accordance with the procedure defined in the *UEFA Disciplinary Regulations* for urgent cases.

Annex V – The Malaga ruling

CAS 2013/A/3067 Málaga CF SAD v. UEFA

ARBITRAL AWARD

rendered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Ulrich Haas, Professor, Zurich, Switzerland
Arbitrators: Mr José Juan Pintó, Attorney-at-law, Barcelona, Spain
Mr Massimo Coccia, Professor and Attorney-at-law, Rome, Italy

Ad hoc clerk: Mr Daniele Bocucci, Attorney-at-Law, Rome, Italy

in the arbitrations between

Málaga CF SAD, Malaga, Spain
Represented by Mr Juan de Dios Crespo Pérez, Attorney-at-law, Valencia, Spain

and

Union of European Football Associations, Nyon, Switzerland
Represented by Mr Ivan Cherpillod, Attorney-at-law, Lausanne, Switzerland, and Dr Emilio García Silvero, Head of Disciplinary and Integrity

1 The Parties

1.1 Málaga Club de Futbol SAD (hereinafter also "Málaga", the "Club" or the "Appellant") is a Spanish football club affiliated with the Real Federación Española de Fútbol (hereinafter the "RFEF"), currently playing in the Spanish 1st division ("Liga") and, at the time of the filing of the appeal discussed in the present proceedings, in the "UEFA Champions' League". The RFEF is a member of the Union des Associations Européennes de Football.

1.2 The Union des Associations Européennes de Football (hereinafter also the "UEFA" or the "Respondent") is an international association of European football federations, and is the governing body of European football, dealing with all matters relating thereto and exercising regulatory, supervisory and disciplinary functions over national federations, clubs, officials and players affiliated to the UEFA or participating in its competitions. The UEFA is the organizing authority of all football competition for clubs at European level, among which the UEFA Champions' League and the Europa League. The UEFA has its seat in Nyon (Switzerland) and enjoys legal personality under Swiss law.

2 Background Facts

2.1 The background facts stated herein are a summary of the main relevant facts, as established on the basis of the Parties' written and oral submissions and of the evidence examined in the course of the proceedings. Additional facts will be set out, where material, in connection with the discussion of the Parties' factual and legal submissions.

2.2 In accordance with the provisions in Articles 65 and 66 of the UEFA Club Licensing and Financial Fair Play Regulations, edition 2012, in force at the time of the facts discussed in these proceedings (hereinafter the "CL&FFPR" or the "Regulations"), Málaga submitted to the RFEF its financial declaration stating that as of 30 June 2012 it had overdue payables of EUR 3,845,000 towards other football clubs and of EUR 5,575,000 towards social and/or tax authorities. Thus, the overall amount of overdue payables declared by Málaga in its financial statement was EUR 9,420,000. Accordingly, this financial statement by Málaga was forwarded by the RFEF to the UEFA on 16 July 2012.

2.3 On 3 August 2012, upon examination of the documentation submitted to it, the Investigatory Chamber of the UEFA Club Financial Control Body (hereinafter the "Investigatory Chamber") found that Málaga was in breach of the indicator 4 as defined in Article 62, par. 3, of the CL&FFPR and decided to request an independent auditing firm (the "AF") to carry out a compliance audit" for the verification of the accuracy of the declarations submitted by Málaga.

2.4 On 27 August 2012, the AF issued its report (the "First Report"), confirming the existence of overdue payables on 30 June 2012 as communicated by Málaga and indicating that an additional amount of EUR 4,599,000, which had been considered by Málaga as deferred by the tax authorities, had actually to be considered as an overdue payable due to the lack of a written agreement signed by the tax authorities to extend the deadline for payment.

2.5 Following the outcome of the compliance report, on 25 September 2012, the Investigatory Chamber informed Málaga that the financial situation of the Club, with particular reference to

the existence of overdue payables, had to be reviewed and that Málaga was invited to submit a declaration evidencing its financial situation as of 30 September 2012.

2.6 On 15 October 2012, the UEFA received from the RFEF the statement submitted by Málaga on the financial situation of the latter. In this statement, Málaga maintained that there were no overdue payables towards other clubs, employees and/or social/tax authorities, and further disclosed the existence of debts towards tax authorities for an overall amount of EUR 15,476,000, which, however, according to Málaga, had to be considered as deferred.

2.7 On the same date, the UEFA received a communication, dated 2 October 2012, by the Spanish tax authorities in which the latter informed the UEFA of the issuance of a seizure order for EUR 23,332,000 on any credits of the Club held by the UEFA. The tax authorities further informed the UEFA that no "installment agreements" had been approved and that, up to this date, "*revenues made were exclusively a result of enforcement actions by the Spanish Tax Agency*". A seizure order had also been previously issued by the tax authorities on 15 June 2012 and reiterated on 2 July 2012.

2.8 On 29 October 2012, the Investigatory Chamber decided to request a further compliance audit in relation to the financial situation of the Club, in order to verify the accuracy of the declaration submitted by Málaga as on 30 September 2012.

2.9 On 5 November 2012, the AF issued its report (the "Second Report"). The findings of the Second Report were essentially that: (i) an amount of EUR 8,450,000, treated by Málaga as "deferred", had to be considered as "overdue", because of lack of written agreement between Málaga and the tax authorities; (ii) an amount of EUR 4,668,000 had to be considered as deferred, because the tax authorities had required the payment of that amount by 20 November 2012, *i.e*. after the reporting date of 30 September 2012.

2.10 On 8 November 2012, the Investigatory Chamber, finding that Málaga had overdue payables of EUR 14,019,000 as of 30 June 2012 and EUR 8,450,000 as of 30 September 2012, decided to refer the Club to the Adjudicatory Chamber of the UEFA Club Financial Control Body (hereinafter the "Adjudicatory Chamber") in accordance with Article 12, par. 1, lit. b) of the Procedural Rules governing the UEFA Club Financial Control Body.

2.11 On 9 November 2012, the Spanish tax authorities sent a letter to the UEFA, communicating, *inter alia*, what follows: ""*PRE-AGREEMENT OF PAYMENT RESCHEDULING OF MALAGA CLUB DE FUTBOL SAD DEBTS.– In relation to the enforced collection administrative procedure of payment against MALAGA CLUB DE FUTBOL SAD (…), we inform you that, once MALAGA CLUB DE FUTBOL has made the payment of 9.000.000 € that this entity has to make to the Spanish Tax Agency (…), we will proceed to sign an agreement in order to split/postpone the outstanding payment in the next days. The date of payment for the outstanding amount will be within January of 2013 (also for new amounts accrued from today´s date)*".

2.12 On 26 November 2012, the Spanish tax authorities sent to the UEFA a further letter which stated that: (i) on 30 June 2012, the decision on the application for postponement of payment submitted by Málaga for the amount of EUR 4,599,712.71 was pending and that, accordingly, the enforcement of corresponding tax debt was deferred until 12 July 2012; (ii) on 30 September 2012, the decision on the application for postponement of payment submitted by Málaga for the amount of EUR 8,450,406.16 was pending and that, accordingly, the enforcement of the corresponding tax debt was deferred until 2 October 2012; (iii) the "conditional agreement" for

the postponement of the payment of which the UEFA had been informed on 9 November 2012 (see *supra* par. 2.11) remained in force. However, the condition to be fulfilled by Málaga in order to obtain deferral was the payment of the amount of EUR 10,100,000, which the Club was expected to collect from its participation in the playoffs of the UEFA Champions' League; (iv) the measures adopted by the tax authorities on 15 October 2012 (*i.e.* the seizure order) with regard to the amounts which UEFA owed to the Club were ""ordinary measures", ""*in the sense that they* [weren't] *different than those adopted against other parties that may still owe amounts to Malaga*".

2.13 On 29 November 2012, the Spanish tax authorities lifted the seizure order issued against Málaga on 15 October 2012.

2.14 On 12 December 2012, a hearing was held before the Adjudicatory Chamber at the headquarters of the UEFA in Nyon. At the hearing, Málaga filed a letter of the Spanish tax authorities, dated 11 December 2012, stating that under the condition of the payment of the amount of EUR 10,100,000 by 20 December 2012, "*and following an analysis of the other circumstances of the proceedings to recover payment*", the Club would have complied with the conditions required by Spanish tax law in order to obtain from the tax authorities a ruling providing for a deferral of the remaining amounts due. The latter must be paid in two installments, *i.e*. EUR 1,142,618 on 20 January 2013 and EUR 3,427,853 on 5 February 2013.

2.15 On 21 December 2012, the Adjudicatory Chamber rendered its decision on the case (the "Appealed Decision"). The operative part of the Appealed Decision, communicated to Málaga on the same date, reads as follows:

> "*The Adjudicatory Chamber of the UEFA Club Financial Control Body decides:*
>
> 1. *To impose a fine of € 300,000 on Malaga CF.*
>
> 2. *To exclude Malaga CF from participating in the next UEFA club competition for which it would otherwise qualify on its results or standing in the next four seasons (i.e. 2013/2014, 2014/2015, 2015/2016, 2016/2017 seasons).*
>
> 3. *Subject to the condition set out at paragraph 4, to impose on Malaga CF a further exclusion from the next UEFA club competition for which it would otherwise qualify on its results or standing in the next four seasons (i.e. 2013/2014, 2014/2015, 2015/2016, 2016/2017 seasons).*
>
> 4. *If Malaga is able to prove by 31 March 2013 that it is in compliance with Articles 65 and 66 of the CL&FFP Regulations so that as at that date it has no overdue payables towards football clubs as a result of transfer activities or towards employees and/or social/tax authorities, then the exclusion referred to at paragraph 3 shall not take effect.*
>
> 5. *(…).*
>
> 6. *The prize-money withheld on 11 September 2012 by the CFCB Chief Investigator is to be released. (…)*".

2.16 On 4 January 2013, Málaga received from the Spanish tax authorities a document, dated 3 January 2013, which stated that –in view of the payments effectuated by Málaga –the request for deferral of outstanding amounts had been granted. Consequently, the Club had to pay the remaining amounts in two installments, *i.e*. EUR 1,362,568.52 by 20 January 2013, and EUR 3,869,185.06 by 5 February 2013.

2.17 On 14 January 2013, the grounds of the Appealed Decision were communicated to Málaga.

2.18 By 5 February 2013, Málaga had paid the outstanding amounts provided for in the deferral plan agreed with Spanish tax authorities (see *supra* paras. 2.14, 2.16).

3 The proceedings before the Court of Arbitration for Sport ("CAS")

3.1 On 24 January 2013, Málaga filed a Statement of Appeal against the Appealed Decision with the CAS Court Office.

3.2 On 14 February 2013, following its request for an extension granted by the President of the CAS Appeals Arbitration Division, Málaga filed its Appeal Brief with the CAS Court Office.

3.3 On 11 March 2013, the Respondent filed its Answer.

3.4 On 28 March 2013, the CAS Court Office informed the Parties on the formation of the Panel in charge of the resolution of the dispute. The Panel was constituted as follows: Mr Ulrich Haas as President, Mr José Juan Pintó Sala as arbitrator appointed by the Appellant and Mr Massimo Coccia as arbitrator appointed by the Respondent. No party, either at this or at any later stage, objected to the constitution and composition of the Panel.

3.5 On 3 May 2013, the CAS issued an Order of procedure which was duly signed by both Parties, respectively on 3 May 2013 (Málaga) and on 6 May 2013 (the UEFA).

3.6 On 23 May 2013, the Appellant filed with the CAS Court Office a document issued by the Spanish tax authorities on 20 May 2013. The aforementioned document stated –- *inter alia* –- that at the date of its issuance Málaga was in compliance with its financial obligations towards the Spanish tax authorities. In the cover letter to this document, the Appellant indicated that "[*t*]*he importance of such documents resides basically in the following points: the application to postpone debts made by Málaga CF were duly processed by the Spanish Tax Agency without finding any cause for their inadmissibility; the payment schedule set out in the postponement agreement has been fulfilled by Málaga CF within the voluntary terms provided; at the moment of the report Málaga CF is up-to-date with its tax obligations to the Spanish Tax Agency*".

3.7 On 24 May 2013, the Appellant filed with the CAS Court Office a further document (dated 23 May 2013) issued by the Head of the Regional Department of the Spanish Tax Authority. The document referred to certain amounts that were due by Málaga to the tax authorities (for an overall amount of EUR 8.450.405,16) and stated, *inter alia*, that: "[*t*]*he application for postponement corresponding to such debts were processed by the Spanish Tax Agency without finding any cause for their inadmissibility according to the Spanish Tax Law (…). As recorded, the applications for postponement concerning the mentioned debts were filed within the voluntary term for payment (…). The said debts were not in enforcement period for payment on*

30 September 2012, as a consequence of the processing status of the applications for postponement concerned, according to the Spanish Tax Law".

3.8 On 29 May 2013, the UEFA filed with the CAS Court Office its comments regarding the letters and documents filed by Malaga on 23 and 24 May 2013. In essence, the UEFA submitted that they were inadmissible pursuant to Article R56 of the Code of Sports-related Arbitration (hereinafter referred to as the ""CAS Code").

3.9 On 30 May 2013, the CAS Court Office informed the Parties on behalf of the Panel that the latter will decide on the admissibility of the (new) documents filed by Málaga at the outset of the hearing on 4 June 2013.

3.10 A hearing took place in Lausanne on 4 June 2013. The Appellant was represented by its Vice-President and President of the Board Mr Moayad Shatat, its Deputy Managing Director Mr Manuel Novo Gerasa, its General Director Mr Vicente Salgado Casado and by its Legal Manager Mr Joaquín Jofre Fernández-Abascal. Furthermore, the Appellant was represented and assisted by its attorneys-at-law Mr Juan de Dios Crespo Pérez and Mr Augustín Amorós Martínez. The UEFA was represented by its General Counsel Mr Alasdair Bell, its Legal Counsel Mr Julien Silberstein, its Senior Compliance Manager Mr Pablo Rodriguez, its Head of Disciplinary and Integrity Mr Emilio García Silvero and by its attorney-at-law Mr Ivan Cherpillod. The hearing was attended also by Mr Victor Gómez de la Cruz and Mr Raúl de Francisco, who were heard as experts for the Appellant, and by Ms Clara Jimenez Jimenez and Ms Ana Mata Zapico, who were heard as experts for the UEFA. At the outset of the hearing, the Panel informed the Parties of its decision to admit the production of the new documents filed by Málaga on 23 and 24 May 2013. According to the Panel, the prerequisites of Article R56 of the CAS Code were fulfilled, since the Appellant could not have filed the documents in its Appeal Brief and filed them in a timely manner after having received them itself.

3.11 The Parties throughout the hearing did not raise any procedural objection and expressly confirmed at the end of the hearing that their right to be heard and to be treated equally had been respected, as they had been given ample opportunity to present their cases, submit their arguments and answer to the questions posed by the Panel.

4 Outline of the Parties,' requests for relief and submissions

The following summaries of the Parties' positions are only roughly illustrative and do not purport to include every contention put forward by the Parties. However, the Panel has carefully considered and taken into account in its discussions and subsequent deliberations all of the evidence and arguments submitted by the Parties, even if there is no specific reference to those arguments in the following outline of their positions or in the ensuing analysis.

4.1 Málaga

4.1.1 In its Appeal Brief, Málaga requested the Panel:

"*1. To accept* [the] *Appeal against the decision of the Adjudicatory Chamber of the UEFA Club Financial Control Body dated 21 December 2012 and notified with its grounds on the 14th of January 2013.*

2. *To adopt an award annulling the said decision and adopt a new one declaring that the Appellant should not be sanctioned.*

3. *Subsidiarily to 2, to adopt an award annulling the said decision and adopt a new one in which a mere reprimand is given to the Appellant.*

4. *Subsidiarily to 2 and 3, to adopt an award annulling the said decision and adopt a new one in which a fine is given to the Appellant.*

5. *Subsidiarily to 2, 3 and 4, to adopt an award annulling the said decision and take a new one excluding Málaga CF from participating in the next UEFA club competition for which it will qualify for the next three seasons but with a suspended sanction for a probationary period during those next three seasons.*

6. *To fix a sum of 40.000 CHF to be paid by the Respondent to the Appellant to aid the Appellant in the payment of its defence fees and costs.*

7. *To condemn the Respondent to the payment of the whole CAS administration costs and the Arbitrators fees*".

4.1.2 The submissions of Málaga may be summarized as follows:

(a) Even if the CL&FFPR constitute the applicable (rules of) law on the merits, it is not possible to decide the issue whether or not certain debts are to be considered overdue without taking into due consideration the Spanish tax law. The latter is not only pertinent in relation to the question whether or not there are debts at all, but also whether or not these debts by Málaga towards the Spanish tax authorities were overdue on the two reporting dates, *i.e*. on 30 June and on 30 September 2012. This is all the more true, considering the character of the "income tax. These debts do not follow from a contract willfully entered into by a party, but from statutory provisions (*i.e*. Spanish tax law). According to the Appellant, it follows from a reading of Article 52.2 of the CL&FFPR that this rule can only be correctly interpreted and applied by making reference to the national law at the seat of the club.

(b) The scope of the monitoring procedure in Article 88.6 of the Regulations that is triggered in case a club is in breach of the CL&FFPR on the first deadline (*30 June of the year in which the UEFA club competitions commence*) is restrained to the analysis whether or not this violation still persist on the second reporting date (*the following 30 September*). Thus, the Appellant submits that the only issue to be decided is whether or not the Appellant on 30 September 2012 had overdue debts towards the Spanish tax authorities.

(c) According to the Spanish tax law, the amounts resulting from a self-assessment by the debtor and to be submitted the tax authorities on certain reporting dates must be paid within a specific time-limit called "voluntary term of payment". However, under Spanish law if the debtor submits a request for deferral of payment within the voluntary term of payment" the tax authorities, in principle, are prevented from adopting any enforcement measures for the collection of the outstanding amounts until the tax authorities have decided on the request for deferral. As a consequence,

the time-limit for the payment of taxes is automatically extended and, thus, considered deferred, if the taxpayer requests for a deferral of the payment within the voluntary term of payment". This analysis is not contradicted by the fact that interests must be paid by the debtor on the amounts due after the expiring of the voluntary term of payment". The facts and circumstances in this respect are analogous to the situation in which the parties agree on a loan. Here too, interest will have to be paid even though it is beyond doubt that the repayment of the loan is not to "overdue".

(d) The request for deferral submitted within "voluntary term of payment" can, obviously, be granted or denied by the tax authorities. In the first case (*i.e.* if granting the request), the tax authorities will issue a schedule for the payments (installments to be made at certain dates) of the outstanding amounts. The payments made in compliance with such calendar are then considered to be made within the voluntary term of payment", with the consequence that the payments cannot be qualified as overdue. In the second case (*i.e.* in case the request is rejected), the tax authorities will set a (final) deadline for the payment, which is to be considered the final date of the voluntary term for payment. Consequently, as long as the final deadline set by the tax authorities has not elapsed, the debt cannot be considered overdue. It follows, therefore, that, irrespective of the decision of the tax authorities in relation to the request for deferral, the "voluntary term of payment" is extended by such request and that as long as the tax payer complies with the directions given by the tax authorities, the debts cannot be considered to be overdue.

(e) The legal framework described above under (b) and (c) must be applied to the case at hand. Málaga submitted its request for deferral of payment before the expiration of the voluntary term of payment. The latter is confirmed by the letter of the Spanish tax authorities sent to the UEFA on 26 November 2012. Málaga cannot be blamed for the delay caused by the tax authorities for deciding on its request for deferral. Generally speaking, the timeframe in which Spanish tax authorities decide on requests for deferral depends on their workload and the complexity of the request submitted. However, the fact that the request was accepted for examination by the tax authorities and, eventually, granted, is clear evidence that all the prerequisites for a deferral of payment were satisfied at the time when Málaga submitted its request.

(f) The recourse to measures such as the issuance of a seizure order is quite common in the practice of the Spanish tax authorities, when dealing with a request for deferral of payment. This, however, does not have any influence on the proper qualification of the payment (as due or overdue), for which the deferral is requested. The above measures are only of a precautionary nature, as is confirmed by the reading of the letter sent by the Spanish tax authorities to the UEFA on 26 November 2012 and have no influence on the legal qualification of the debt at issue.

(g) Furthermore, the Appellant submits that it would be illogical to base a breach of the CL&FFPR and consequently a sanction based on the latter on the fact that the Spanish tax authorities took so much time to decide upon Málaga's request for deferral of payment. If the tax authorities would have supplied Málaga with a decision in relation to its request within shorter term (*i.e.* before 30 September 2012) the debt would have been considered as not overdue. Since Málaga had no

possibilities to compel the Spanish tax authorities to act swiftly and promptly upon its request, no violation of the CL&FFPR can be asserted. The Adjudicatory Commission failed to apply the principle of ""force majeure"" provided for in Annex XI of the CL&FFPR to the facts and circumstances of the case.

(h) Málaga has fully complied with the terms of payment indicated in the document issued on 4 January 2013 by the tax authorities subsequent to the granting of the request. Moreover, by 5 February 2013, the Club had paid all of the outstanding debts towards the tax authorities (that were outstanding as of 30 September 2012).

4.2 The UEFA

4.2.1 In its Answer, the UEFA requested the Panel:

> "*to dismiss the appeal and to order payment by the Appellant of all costs of the arbitration as well as legal costs suffered by UEFA*".

4.2.2 The submissions of the UEFA may be summarized as follows:

(a) Article 63.3 of the UEFA Statutes sets out that the proceedings before the CAS shall be regulated by the CAS Code. In accordance with the provision of Article R58 of the CAS Code, the law applicable to the present dispute are the regulations of the sports organisation that has issued the (appealed) decision. Consequently, the provisions applicable to the case at hand are the UEFA Statutes and the UEFA rules and regulations. By participating in the UEFA competitions (in particular in the UEFA Champions' League"), Málaga accepted to be subjected to the above-mentioned statutes, rules and regulations. Since the UEFA has its seat in Switzerland, it follows from Article R58 of the CAS Code that Swiss law applies to the dispute subsidiarily. However, no recourse may be made to Spanish law, which is irrelevant to the resolution of this dispute. If one were to follow a different view according to which the application/interpretation of the CL&FFPR would depend on the respective national laws of each club participating in the UEFA competitions, the scope of the CL&FFPR would by seriously jeopardized. The purpose of the CL&FFPR consists in establishing a level-playing field between the clubs and ensuring equal treatment among all participants in the UEFA competitions. This reasoning is also consistent with the case-law of the CAS. In order to ascertain whether the debts of Málaga towards the Spanish tax authorities were to be considered as overdue or not, therefore, the Panel must rely solely on the CL&FFPR and, as the case may be, subsidiarily on Swiss law. Instead, Spanish law is not to be taken into consideration.

(b) The promotion of football and of financial fair-play by the UEFA represents a legitimate goal which must be taken into account when interpreting the provisions contained in the UEFA Statutes and by-laws. The club licensing system, which is based on the monitoring of the financial situation of the clubs, demands that (all of) the clubs must be treated equally. A club, therefore, should not be allowed to take (unfair) advantage, – *i.e.* to dodge its responsibilities/obligations deriving from the CL&FFPR –from the peculiarities of its national law or from the support of State authorities that wish to "protect" their clubs.

(c) The term “”overdue payables”” is clearly defined in the CL&FFPR. Any reference to the national law is, therefore, not possible and would contradict the definition. In accordance with the CL&FFPR a payment must be deemed to be overdue when not made on the established deadline (*i.e.* the time-limit on which the payment must be made). With specific reference to the case at issue, the tax debt was overdue at both reporting dates, since the debt was not paid on the due date. It must also be pointed out that the possibility to start enforcement actions designed to collect the amounts due by the debtor is irrelevant for assessing whether or not a payment is to be considered as overdue.

(d) The CL&FFPR provide that a debt is not considered to be overdue if on the relevant date (*i.e.* respectively on 30 June/30 September of each year) the creditor has accepted in writing to extend the deadline for payment. Contrarily to what Málaga asserts, therefore, it is irrelevant that under Spanish law a written agreement may not be necessary, since national law cannot prevail over the CL&FFPR, which expressly request that any deferral agreement shall be in writing and must be executed on or before the relevant reporting date. It is undisputed that no written agreement had been reached between Málaga and the Spanish tax authorities on the relevant reporting dates, in particular 30 September 2012. Therefore, the debts cannot be considered as deferred. It must be noted that the mere submission of a deferral request by the debtor that might be rejected at any time by the creditor cannot be qualified as a written agreement within the meaning of the CL&FFPR. For the same reasons, any agreement reached by Málaga and the Spanish tax authorities subsequent to 30 September 2012 is irrelevant for establishing whether or not the Club breached the provisions of the CL&FFPR.

(e) In any case, even assuming that Spanish law would be applicable to the present case, the debt of the Club towards the tax authorities must be considered as overdue. By referring of a voluntary term of payment, in particular, the Club tries to suggest that under Spanish law the debtor is entitled to decide whether to pay or not on that deadline. Indeed, even though the charging of delay interest on a specific amount is not necessarily a prerequisite in order to establish whether a payment is overdue, the fact that interest was charged by the tax authorities on the amounts due by Málaga is, nevertheless, clear evidence that the payment was not made on the due date and that such payment was overdue. By the same token, the issuance by the tax authorities of a seizure order on any amounts to which the Club was entitled in view of its participation in the UEFA competitions is a further confirmation that the payment to be made by Málaga to the tax authorities were overdue. On the contrary, the fact that the submission of the request for deferral entails the suspension of the enforcement for the collection of the amounts is not relevant.

(f) The Respondent further submits that the Club seeks to conceal the fact that a significant part of its debt toward the tax authorities could not be the object of a request for deferral. According to the Respondent, a request for deferral is not admissible if the amounts relate to “employees’ tax payables” which are deducted by the employer from the employees’ income and transferred (in the name of the employees) directly to the tax authorities. In addition, it must be noted that, at the time of the request for deferral, the Club was in insolvency proceedings. In such circumstances, a request for deferral is not admissible under Spanish law.

(g) The sanction imposed by the Adjudicatory Chamber on the Club was proportionate and adequate in view of the circumstances of the case and in light of the goal pursued by the UEFA through the club licensing system and the financial fair play provisions. As a matter of fact, the Respondent submits that Málaga did not challenge the proportionality of the sanction.

4.3 Clarifications made at the hearing

At the outset of the hearing, in consideration of the different amounts reported in the Parties' brief relating to the Appellant's debt on the relevant reporting dates, the Panel invited the Parties to clarify their positions insofar. Following the invitation of the Panel, the Parties submitted the following figures:

(i) as of 30 June 2012:

- Málaga holds the view that it owed the following amounts: EUR 10,700,000 to tax authorities, EUR 2,700,000 to other clubs and EUR 5,800,000 to players. In relation to the amount owed to the tax authorities, Málaga submits that it had made a unilateral request to defer payment within the "voluntary term of payment. In relation to the debts owed towards other clubs and towards players, the Appellant admits that there was no debt deferral agreement in the amount of EUR 2,700,000.

- UEFA holds the view that Málaga owed overdue payables towards tax authorities in the amount of EUR 5,575,000 and overdue payables towards other clubs in the amount of EUR 3.845,000.

(ii) as of 30 September 2012:

- both Parties agree that Málaga owed EUR 15,400,000 towards tax authorities. The Parties further agree that there was a debt referral agreement in the amount of EUR 8,400,000. For the remainder (EUR 7,000,000), the Appellant requested a unilateral postponement within the "voluntary term of payment;
- as for the debt of EUR 2,700,000 towards clubs and of EUR 5,800,000 towards players/employees, it is undisputed between the Parties that there was a valid debt deferral agreement with the relevant creditors.

(iii) as of 31 March 2013:

- both Parties agree that Málaga is in compliance with Articles 65 and 66 of the CL&FFP.

5 Jurisdiction of the CAS

5.1 Article R47 of the CAS Code reads as follows:

> *"An appeal against the decision of a federation, association or sports-related body may be filed with the CAS insofar as the statutes or regulations of the said body so provide or as the parties have concluded a specific arbitration agreement and insofar as the*

> *Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said sports-related body.*"

5.2 The provision at issue provides for three prerequisites that must be fulfilled, namely:

- there must be a "decision" of a federation, association or another sports-related body;
- the "internal remedies available prior to the appeal" to CAS must have been exhausted, in accordance with the statutes or regulations of the mentioned bodies; and
- the parties must have submitted to the competence of the CAS.

5.3 The Appealed Decision must be considered as a "decision of an association" within the meaning of Article R47 of the CAS Code, so that the first prerequisite is fulfilled, since, as set out above, the UEFA is an international association regulating the sport of football at a continental level.

5.4 There are no internal remedies available to the Parties for appealing/objecting to the Appealed Decision. This can be inferred from Article 25 ("*Legal force of the final decision*"), para. 2, of the Procedural Rules governing the UEFA Club Financial Control Body (edition 2012), which provides that any decision issued by the Adjudicatory Chamber ""*may only be appealed before the Court of Arbitration for Sport (…) in accordance with the relevant provisions of the UEFA Statutes*". Furthermore, Article 62 (*CAS as Appeal Arbitration Body*), par. 1, of the UEFA Statutes (edition 2012) provides that: ""[a]*ny decision taken by a UEFA organ may be disputed exclusively before the CAS in its capacity as an appeals arbitration body, to the exclusion of any ordinary court or any other court of arbitration*".

5.5 The third prerequisite is also met. This follows from the acceptance by Málaga –through its affiliation and registration in the UEFA competitions – of the arbitration clause in favour of the CAS, provided in the above-mentioned UEFA Statutes and by-laws.

5.6 Furthermore, the jurisdiction of the CAS in the present dispute can also be inferred from the content of the Order of Procedure, duly signed by all the Parties. Finally, the Panel notes that the jurisdiction of the Panel has not been contested by any party to this proceeding and, on the contrary, was explicitly recognised by the Parties in their briefs. It follows from all of the above that the CAS has jurisdiction in the present matter.

6 Mission of the Panel

6.1 According to Article R57 of the CAS Code, the Panel has full power to review the facts and the law of the case. Furthermore, the Panel may issue a new decision which replaces the decision challenged, or may annul the decision and refer the case back to the previous instance.

7 Admissibility

7.1 Article R49 of the CAS Code reads as follows:

> *"In the absence of a time limit set in the statutes or regulation of the federation, association or sports-related body concerned, or in a*

> *previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against*".

7.2 The above provision of the CAS Code, therefore, gives autonomy to the Parties to deviate from the time-limit of 21 days for the filing of the appeal. In this regard, it must be noted that Article 62 (*CAS as Appeal Arbitration Body*), par. 3, of the UEFA Statutes (edition 2012) provides that:

> *"The time limit for appeal to the CAS shall be ten days from the receipt of the decision in question*".

7.3 The Appealed Decision, reporting the grounds on which it is based, was communicated to Málaga on 14 January 2013.

7.4 On 24 January 2013, Málaga filed with the CAS Court Office its Statement of Appeal against the Appealed Decision.

7.5 In view of the above, the Panel concludes that the Appellant complied with the time-limits prescribed by the UEFA Statutes (edition 2012) and by the CAS Code. The appeal is, therefore, admissible.

8 Applicable law

8.1 Article R58 of the CAS Code provides as follows:

> *"The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".*

8.2 The subject matter of the appeal relates to whether or not Málaga breached the UEFA CL&FFPR to which it has submitted. It is thus clear that for the resolution of the present dispute the UEFA Statutes, rules and by-laws, in general, and the CL&FFPR (in the edition applicable *ratione temporis* to the facts of the case) primarily must be applied.

8.3 The issue whether any –- and if answered in the affirmative which –- national law applies to the resolution of the dispute is contested between the Parties and shall, therefore, be discussed in the merits section of the case.

9 The merits of the dispute

a) The law applicable to the resolution of the dispute

9.1 The Parties are in dispute over which (national) law applies subsidiarily to the present dispute. This is particularly true for the question whether or not payables by Málaga were "overdue. According to the Club, whether or not payables are "overdue" (within the meaning of the

CL&FFPR) towards the tax authorities of a specific country must be established in light of the national law that governs the debt, *i.e.* the law of the country in which the tax obligation (for which the payment is sought) arises. If one would follow this line of argument, then whether or not payables are "overdue" would have to be assessed not only according to the CL&FFPR, but also according to Spanish tax law.

9.2 The UEFA, on the contrary, holds that the rules of law applicable to the merits of the dispute are the CL&FFPR. The latter apply, in principle, to the exclusion of any national law. An exception is to be made where the CL&FFPR explicitly or implicitly refer to a certain national law. Another exception is to be made in light of Article R58 of the CAS Code according to which the law at the seat of the sports federation that issued the decision forming the matter in dispute applies. However, this law (Swiss law in the present case) only applies subsidiarily. According to the latter, Swiss law only applies inasmuch as the CL&FFPR contain a lacuna. Since, however, the term "overdue" is exhaustively defined in the CL&FFPR, there is no scope for the application of Spanish law (since the relevant rules do not contain any reference) or Swiss law (since there is no lacuna to be filled).

9.3 The term "overdue payables" within the meaning of the CL&FFPR is defined in Annex VIII of the Regulations, which reads as follows:

> "*1. Payables are considered as overdue if they are not paid according to the agreed terms.*
>
> *2. Payables are not considered as overdue, within the meaning of these regulations* [*i.e.* the CL&FFPR] *if the license applicant/licensee (i.e. the debtor club) is able to prove by 31 March (in respect of Articles 49 and 50) and by 30 June and 30 September (in respect of Articles 65 and 66) respectively that:*
>
> *a) it has paid the relevant amount in full; or*
>
> *b) it has concluded an agreement which has been accepted in writing by the creditor to extend the deadline for payment beyond the applicable deadline (note: the fact that a creditor may not have requested payment of an amount does not constitute an extension of the deadline); or*
>
> *c) it has brought a legal claim which has been deemed admissible by the competent authority under national law or has opened proceedings with the national or international football authorities or relevant arbitration tribunal contesting liability in relation to the overdue payables; however, if the decision-making bodies (licensor and/or UEFA Club Financial Control Body) consider that such claim has been brought or such proceedings have been opened for the sole purpose of avoiding the applicable deadlines set out in these regulations (i.e. in order to buy time), the relevant amount will still be considered as an overdue payable; or*
>
> *d) it has contested to the competent authority under national law, the national or international football authorities or the relevant*

> *arbitration tribunal, a claim which has been brought or proceedings which have been opened against it by a creditor in respect of overdue payables and is able to demonstrate to the reasonable satisfaction of the relevant decision-making bodies (licensor and/or UEFA Club Financial Control Body) that it has established reasons for contesting the claim or proceedings which have been opened; however, if the decision-making bodies (licensor and/or UEFA Club Financial Control Body) consider the reasons for contesting the claim or proceedings which have been opened as manifestly unfounded the amount will still be considered as an overdue payable*".

9.4 It is true that, in principle, the law governing the existence of an obligation also governs the due date of the latter. It is beyond dispute that whether or not Málaga owed a debt towards the Spanish tax authorities within the meaning of the CL&FFPR is a question that is governed by Spanish law. Insofar, the CL&FFPR implicitly refer to the Spanish law. However, it is not a mandatory requirement that both questions (existence of an obligation and due date) be governed by the same law. In light of the freedom of association, the latter may provide in its rules and regulations that a different set of rules apply to both questions. This is all the more true if the association – as is the case here – has set out to create a level playing field in international club competitions (cf. CAS 2012/A/2702, para. 92). The idea to define in a uniform manner –- and independently of where a club is domiciled –- the term "overdue" is, thus, not arbitrary, but instead perfectly in line with the principle of freedom of association. This also follows from CAS jurisprudence (CAS 2012/A/2702, para. 91) according to which ""[p]*ursuant to Art. 154 of the Swiss Act concerning Private Law, the UEFA regulations cannot be overridden by the national laws as this would lead to unequal treatment among clubs from different countries. ..*"

9.5 That there is a need to have a uniform definition of what constitutes an overdue payable cannot be disputed and is perfectly illustrated in the case at hand. It appears that the various legal systems differ as to what consequences follow from the fact that a debt is "overdue. In some jurisdictions the creditor may be entitled to file a claim and/or to seek enforcement of the claim; he may be (also) eligible for interests and/or entitled to offset a claim directed against him. The characterization of a debt as overdue may in addition– in some jurisdiction– also be a prerequisite when assessing whether or not a debtor is illiquid in terms of insolvency law. If the term "overdue" were not defined in the CL&FFPR, it would be difficult to know to what consequences the term "overdue" used in the CL&FFPR refers. In the case at hand, the Appellant is of the view that the decisive criteria to assess whether or not a payable is overdue is whether the creditor is entitled to commence enforcement proceedings against the debtor. The Respondent, on the contrary, asserts that the typical consequence of a debt being overdue is that the creditor must pay interest. It is exactly a dispute of this kind that the CL&FFP tries to avoid by uniformly defining the term "overdue. That the CL&FFP is designed to uniformly and autonomously define the term "overdue" clearly follows from the CL&FFP. There is no room for the application of the *contra proferentem* rule here. Thus, the Panel holds that –contrary to what the Appellant submits– Spanish law does not apply within the definition at UEFA level of the expression "overdue payables".

9.6 The question, however, is whether the CL&FFPR define the term "overdue" in respect of the debt at stake here (debt towards tax authorities). Doubts in this respect arise from the wording of Nr. 1 of Annex VIII of the Regulations. According to such provision, ""[p]*ayables are considered as overdue if they are not paid according to the agreed terms*."" At first glance, thus,

it may appear that the definition of "overdue" is only aimed at contractual obligations because only in relation to the latter there can be "agreed terms". However, if one takes Annex VIII of the Regulations in its entirety, it becomes evident that this provision not only deals with contractual debts, but with all kinds of obligation including statutory debts. Thus, it follows from the Regulations that the term "overdue" is a defined term that must be interpreted autonomously, *i.e*. without reference to a national law.

9.7 To conclude, therefore, the Panel finds that recourse to a national law in the context of the CL&FFPR is legitimate only (i) if necessary for the application of the CL&FFPR and (ii) where recourse to national laws does not undermine the very purpose of the CL&FFPR. Neither prerequisite is fulfilled in the case at hand and, thus, only the CL&FFPR are applicable to the question whether or not the outstanding payables were overdue".

b) The lack of a (written) agreement"

9.8 It is undisputed that –- originally -– debts towards the tax authorities were due before 30 June 2012. What is disputed between the Parties is whether this was still the case on 30 September 2012. The latter depends on whether or not the deadline for the payment of the debt had been extended beyond 30 September 2012 or not. In this respect, the CL&FFPR provide that a debt becomes deferred if the debtor club "*has concluded an agreement which has been accepted in writing by the creditor to extend the deadline for payment beyond the applicable deadline (note: the fact that a creditor may not have requested payment of an amount does not constitute an extension of the deadline)*. This provision is not easy to understand at first sight. According to the wording, there must be an agreement between creditor and debtor to extend the deadline for payment and (in addition) the agreement must "be accepted in writing" by the creditor. The Panel is of the view that it does not follow from the wording of Nr. 2 lit. b of Annex VIII of the Regulations that the agreement to extend the deadline for payment must necessarily be found in a single document signed by both parties. Instead, in the Panel's view, what is intended by the rule is that the declaration of the creditor to accept the extension of the deadline for payment must be in writing. The Panel is thus of the view that, in order to comply with the said rule, it suffices that a request by the debtor to extend the deadline (be it orally or in written form) is accepted by the creditor in written form. The provision, thus, makes two things very clear. First, an extension of the deadline for payment is only accepted if there is a clear expression of will of the creditor in this respect. This is in particular made clear by the note in brackets according to which "keeping still" or not enforcing a claim cannot be qualified as a tacit consent by the creditor to extend the deadlines for payments. Secondly, the provision requires that the relevant expression of the creditor's will must be in writing.

9.9 In light of the above, the Panel holds that the prerequisites of Nr. 2 lit. b of Annex VIII of the Regulations would have been fulfilled if the Appellant had made a request for deferral of payment that had been accepted in writing by the Spanish tax authorities. However, lacking any decision of the Spanish tax authorities and, thus, a clear expression of will to extend the deadlines of payment, the prerequisites of Nr. 2 lit. b of Annex VIII of the Regulation cannot deemed to be fulfilled. In coming to this conclusion, the Panel does not ignore that some national laws provide for a concept of "tacit approval" in case a private subject files a request with a public authority and the latter remains inactive. However, even if one were to assume that there was a tacit approval by the Spanish tax authorities in relation to the postponement of the deadline for payment, the conditions of Nr. 2 lit. b of Annex VIII of the Regulations would not be fulfilled. The latter expressly require that the consent given by the creditor be in writing. It is true that a conditional (written) consent was given by the Spanish tax authorities after 30 September 2012.

This, however, is immaterial in the case at hand, since Nr. 2 of Annex VIII of the Regulations provides that the debtor must prove by the relevant reporting date (*i.e*. by 30 September 2012) that the conditions for deferred payments are fulfilled. This, however, is not the case here. The first communication by which the tax authorities informed the UEFA of a possible agreement with the Club was sent on 9 November 2012, *i.e.* over a month after the expiring of the deadline of 30 September 2012 set forth in Article 66.6 of the CL&FFPR. In addition, the aforementioned correspondence did not affirm that an agreement had been reached with the Club, but merely informed the UEFA that the tax authorities were willing to sign an agreement with the Club subsequent to the payment by the latter of the amount of EUR 9,000,000.00. It was only on 3 January 2013 that the tax authorities communicated to the Club the granting of the deferral for the (outstanding) payments. Since the "agreement" within the meaning of the Annex VIII of the Regulations was only executed after the relevant reporting date, the Panel has no other choice than to conclude that the Club had overdue payables on 30 September 2012.

9.10 The above conclusion is not unreasonable and/or overly harsh. The Club submits that, once the request for deferral is submitted, the tax payer/debtor has no powers to compel the tax authorities to issue a decision within a specified deadline, but may only wait for the decision to be issued. According to the Appellant it would be unreasonable to sanction the Club for delays due to the workload of the Spanish tax authorities. The Appellant submits that it cannot be blamed for the fact that the tax authorities were unable to decide upon its request within a shorter deadline, *i.e*. within an appropriate term. Moreover, the Appellant alleges that the principle of "force majeure" enshrined in Annex XI of the CL&FFPR would be breached if one were not to take into account that it had no possibilities to compel the tax authorities to issue a decision. The Panel does not follow this reasoning. It must be noted that the situation at hand does not differ from a case in which a debtor requests form a private creditor (*e.g.* another club, banks or other creditor) the postponement of deadlines for payment. In such case, the debtor has no compelling powers to force the creditor to take a decision in relation to his request. This is no case of force majeure. The Panel fails to see why this case should be treated any different than the case at hand. Furthermore, the Panel is also mindful of the fact that –- other than alleged by the Appellant –- the debt payer has at least some kind of influence to receive a timely answer to its request. This influence consists in filing the deferral request as early as possible. The earlier the request is filed the sooner the tax authorities will decide upon the request for deferral. In the case at hand, the Panel notes that the request has been made –- practically –- at the latest moment possible before the reporting date of 30 June 2012. If, therefore, no "answer" was received from the tax authorities before 30 September 2012, not solely the tax authorities are to be blamed.

c) Proportionality of the sanction

9.11 Only a final and short remark is to be made on the issue of the proportionality of the sanction imposed on Málaga. The Appellant has not submitted any specific argument why the sanction imposed would not be in line with principles of proportionality. Contrarily to what the Club maintains, the mere (subsidiary) request by the Appellant to the CAS to amend the decision of the Adjudicatory Chamber cannot be considered as "arguments or allegations" aiming at contesting the proportionality of the sanction. However, absent any such arguments by the Appellant and in view of the fact that the sanction imposed upon the Club seems to be proportionate (also in view of other CAS decisions issued in the context of the CL&FFPR) the decision of the Adjudicatory Chamber must be confirmed.

10 Final findings

10.1 In view of the above, the appeal filed by Málaga must be dismissed.

10.2 The decision issued by the Adjudicatory Chamber and the sanction imposed on Málaga must be confirmed.

10.3 All other or larger motions or prayers for relief of the Parties are dismissed.

11 Costs

11.1 Article R65 (paras. 1 and 2) of the CAS Code ("Appeals against decisions issued by international federations in disciplinary matters"), edition in force at the time of the filing of the statement of appeal, provides that proceedings concerning appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports-body shall be free, excepted for the payment of a non-refundable Court Office fee of CHF 1,000.00.

11.2 The provision at issue (par. 3) further provides that:

> "*Each party shall pay for the costs of its own witnesses, experts and interpreters. In the arbitral award, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and the outcome of the proceedings, as well as the conduct and financial resources of the parties*".

11.3 The appeal filed by Málaga is an appeal against a decision of an exclusively disciplinary nature and rendered by an international federation or sports-body, *i.e.* the Adjudicatory Chamber of the UEFA Club Financial Control Body. Therefore, the above-reported provision of Article R65 of the CAS Code is applicable to the appeal filed by Málaga and the proceedings shall be free of charge with the exception of the Court Office fee of CHF 1,000.00 paid by the Club and to be retained by the CAS.

11.4 Considering the outcome of the proceedings and the nature of the dispute, the Panel deems it appropriate to rule that each party shall bear its own expenses incurred in connection with these arbitration proceedings.

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeal filed on 24 January 2013 by Málaga CF SAD against the decision rendered by the Adjudicatory Chamber of the UEFA Club Financial Control Body on 21 December 2012 is dismissed.

2. The decision rendered by the Adjudicatory Chamber of the UEFA Club Financial Control Body on 21 December 2012 is confirmed.

3. The award is pronounced without costs, except for the Court Office fee of CHF 1'000 (one thousand Swiss Francs) paid by Málaga CF SAD, which is retained by the CAS.

4. Each party shall bear its own expenses incurred in connection with these arbitration proceedings.

5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 8 October 2013

Operative part of the award communicated on 11 June 2013

THE COURT OF ARBITRATION FOR SPORT

Ulrich Haas
President of the Panel

José Juan Pintó
Arbitrator

Massimo Coccia
Arbitrator

Daniele Boccucci
Ad hoc clerk

Annex VI - Correspondence between HMRC and Rangers including recommendation to settle and proposed settlement

HM Revenue & Customs

Local Compliance
Large & Complex Businesses
Elgin House
20 Haymarket Yards
Edinburgh
EH12 5WN

Phone 0131 346 5541
8.30am to 5.00pm Monday to Friday

www.hmrc.gov.uk

Murray International Holdings Ltd
9 Charlotte Square
Edinburgh
EH2 4DR

For Attention Mr M McGill Finance Director

Date 23 February 2011
Our ref

Dear Mr McGill,

The Rangers Football Club Plc (RFC) – Discount Option Scheme/Value Shift Scheme (DOS)

Further to our meeting on 10 February 2011 I now enclose, as agreed, a revised computation on the basis of the position that I set out to you after looking at the side agreements critically.

You agreed to let me have a decision by the end of February 2011 as to whether the club wanted to accept the offer to settle on the lines of Aberdeen Asset Management Ltd (AAM) as set out in my letter dated 26 November 2010 and this information should assist you in coming to that decision. I enclose a spreadsheet with updated interest calculation to assist with comparison having computed interest in both scenarios to May 2011 as being a likely settlement date.

In the meantime, again to assist you, I enclose my technical analysis of the position having regard to the side agreements, the consequences of those documents and the letter denying their existence. You should bear in mind that this analysis is provided as a guide only and that we may employ these and/or other additional arguments when putting our case to tribunal but that this would form the basis for my decision letter and HMRC latest thinking on the case. It would effectively replace the offer to settle under AAM terms, as set out in my letter of 26 November 2010 but those terms may still be pursued as alternatives if litigating the case.

As you will see, the effect of the side letters require me to make PAYE assessments for years not so far assessed for these payments and I am putting the wheels in motion to have these issued to the club. When the club receives them they may be appealed. The appeals can then be processed so that the issues can be heard and the alternative assessments

considered by First Tier Tribunal if voluntary settlement does not take place before then. Clearly, they can be set aside if voluntary settlement is agreed.

I would have liked to have had this letter to you before now but wanted what I was saying reviewed by other areas first. I am sure that you will agree that this was worth while.

I trust that all the above is of assistance and look forward to hearing from you by the end of the month. If you need to discuss any issues before then please do not hesitate to contact me.

Yours sincerely

The Rangers Football Club Plc (RFC)

Discount Option Scheme (DOS) Technical analysis. February 2011

RFC used the DOS to make payments for three players/employees, Tore Andre Flo, Ronald De-Boer and Craig Moore. I will analyse the position for each employee individually as while there are similarities to the positions there are differences that set each apart.

Tore Andre Flo

In a side letter dated 23 November 2000 RFC agree to arrange net payments into a fund under the Club's Employee Benefit Trust for his benefit at specified dates. This letter is dated the same day that Flo signs his employment contract with RFC.

The relevant amounts referred to in the letter are:-
30 November 2000 £450,000
30 November 2001 £700,000....

RFC set out that the total funds including investment returns will become payable to him immediately on termination of his contract.

"Net payments" are net of PAYE so for assessment purposes the amounts paid need grossed up.

The amounts paid were in sterling and were £1,150,000 these are the emoluments. The additional £5733 paid will, I assume, be the investment funds referred to. These will be chargeable on either Flo personally, the Trust, the companies holding the funds or the employer. I am prepared to ignore these for the purposes of assessment but the Tribunal may wish to come to its own conclusions as to the treatment of this sum.

On 30 August 2002 Flo was sold and transferred to Sunderland FC. He received another side agreement letter superseding the letter dated 23 November 2000 and so only the above payments were made under the original agreement. Additional subsequent payments were made through MGMRT in respect of his agreeing to release RFC from their obligations under his existing contract.

Under S202A(1) income tax shall be charged on the full amount of the emoluments received for the year... S202B(1) states that the time for S202A(1)(a) shall be found in accordance with (a) the time when payment is made of or on account of the emoluments; or (b) the time when a person becomes entitled to payment of or on account of the emoluments; and be the earlier of these times.

Following AAM the date that the "keys to the money box" were handed to Flo was 7 October 2003 when the Trustees wrote to him to say that he had all the share capital in the vehicle companies. That would mean assessment for 2003/04, 202B(1)(a).

However, the side agreement letter sets out that the funds will become payable to Flo on termination of his contract. So he becomes entitled to payment on that date, 30 August 2002. So the year of assessment would be 2002/03, 202(B)(1)(b).

Since, in the case of the earlier date the payment is due on termination, the assessable amount should be the £1.15m grossed up at the Highest rate applicable for the year and that will be 40%. This gives an assessable figure of £1,916,666 for 2002/03.

So we will require to raise determinations for 2002/03 for £1,916,666 and the alternative assessments for 2003/04 already made require to be increased to gross of £1,474358.

Extended Time Limits

Assessments for 2002/03 are out of normal assessing time limits now and so we need to consider if there has been deliberate behaviour on the part of the employer in submitting an incorrect P35. Deliberate behaviour is described at CH53700 as "describing transactions inaccurately or in a way to mislead".

The existence of the side agreements for the three players involved was specifically denied in Murray Group letter dated 7 April 2005 shortly after the enquiry into the scheme commenced. This was in response to a specific request for any such documents. The side agreement for Flo and De-Boer were provided later in June 2009 in connection with HMRC enquiries into the Murray Group Management Remuneration Trust (MGMRT).

In finding these documents HMRC has made a discovery within the terms of Regulation 80 of Income Tax (Pay As You Earn) Regulations 2003: SI 2003 No2682. Section 36(1) as amended by FA89/S149 and Schedule 39 FA2008 provides the authority for determinations outside the normal (6 year) time limits, up to 20 years may be made where there has been a loss of tax attributable to deliberate conduct.

National Insurance contributions may be recovered by a decision under Section 8 of the Social Security Contributions (Transfer of Functions) Act 1999. Similar time limits to the Reg80 apply in Scotland.

The employer made a commitment to the employee in the side agreements that he would be paid the agreed net amounts. In the case of Flo some of this was unconditional and some conditional on him being an employee at the relevant dates. Despite stating to the contrary the payments are contractual and directly related to the employment.
The terms of the documents are clear and are signed by the Finance Director. So the side agreements in themselves operate as contractual entitlements to the emoluments and the vehicle used to meet that obligation is the DOS.

This appears to be deliberate behaviour leading to a loss of tax etc. Determinations may therefore now be made up to 20 years prior.

Operation of PAYE

Side agreements on their own

The employer paid the employee and deducted PAYE in accordance with the rules for payments made under the contract that was registered with the SFA. So it knew that PAYE was required to be operated. The employer knew that the payments were

subject to PAYE indeed there would be no other logical explanation to describe the payments as net in the agreement and then go on to indemnify the employee from any tax liability if that were not so.

Under the side agreements the employer has given the employee an entitlement that crystallises at the dates set out. S202B (1) (b) provides that the emoluments are treated as received when the person becomes entitled to the payments. The employer has then gone on to meet that entitlement by paying the funds through the scheme arrangements. In failing to deduct or remit the tax at the time of entitlement the employer has deliberately failed in its obligations.

There is no suggestion here of a lack of care or a mistake it was a deliberate attempt to reduce its outgoings and retain the amounts of tax etc. for its own purposes.

Side agreements with the scheme

Alternatively, it could be viewed that in adding the side agreement to the scheme they have departed from the scheme or added to it. Although I have not seen it I assume that the professional advice given will have been on the basis that the scheme supplied was put into practice without deviation. I understand that the scheme is said to work on the basis that there is a genuine possibility that options would be called up by the Trust and so the value of the shares held by the employee would then be negligible. If the employer had already given a guarantee that the funds will be immediately payable, as they have, then the employer must be aware that the Trustees would not exercise the option proposed by the scheme. It can therefore be seen as a sham set of arrangements. If the trustees had exercised their options then the employer would still have been liable to performance of the side agreements and find another way to make the payments. It is inconceivable that this would have happened as no one would have benefited.

I assume that the employer took advice on the DOS and was, no doubt, told that the payments would escape the PAYE net as the arrangements were designed that way. The key event being that there was an option to discount the value of cash held in the vehicle company. I assume that the advice given was without the knowledge that side agreements had been provided for.

It would therefore seem clear that there has been a deliberate attempt to withhold the taxes and NICs that should have appeared on the relevant forms P35 each year and the taxes and NICs that should then have been remitted.

In any event, by the employer giving the side agreement assurances the scheme has not been implemented as supplied.

Ronald De Boer

De Boer was given a letter dated 30 August 2000, the same day that he signed his playing contract, setting out that the employer would arrange net payments of 1m Guilders to him every 6 months, a total of 8 payments from 1 January to 31 May 2004 were promised. The technical arguments for the payments to Flo apply equally to the De-Boer payments.

He was employed from 30 August 2000 to 23 August 2004 and so all of the payments set out were made. The currency changed from Guilders to Euro on 1 January 2001 but this is not considered relevant beyond the exchange rate to be used. The first 4 payments were through the Rangers EBT but De Boer received the final 4 payments through the MGMRT from Feb 2003.

In a letter dated 14 January 2002 Douglas Odam sets out that €453,780 is equivalent to NLG 1million. This exchange rate has been taken for the calculations and converted to sterling. £280,076 equals €453,780. Exchange rates for the earlier payments are averaged approximations rather than spot rates for the day.

The schedule of dates for payments would be:-

Chargeable		Grossed up	
1 January 2001	2000/01 NLG 1 million = £276,365	£460,608	2000/01
31 May 2001	2001/02 NLG 1 million = £278,629	£464,381	2001/02
1 January 2002	2001/02 NLG 1 million = £282,422	£470,703	2001/02
31May 2002	2002/03 €453780 = £280,076	£466,793	2002/03
1 January 2003	2002/03 Replaced by MGMRT payments of €453,780		

As De-Boer was an employee when the payments were made then all the payments made would be grossed up and chargeable at the higher rate. The total is £1,117,492. We have assessed an estimate of £1,023,829 for 2004/05.

Again we will need to make assessments under the Extended time limits. The arguments about deliberate behaviour in the case of Flo apply equally to De-Boer. The side letters provide the entitlement and the employer was aware that the payments ought to have been made under PAYE. No professional guidance was taken on the position including the side agreements that gave rise to the payments. There has been a deliberate failure here.

Penalties S98A (4) TMA1970
Where there has been fraudulent or negligent conduct in making an incorrect form P35, i.e. not showing the correct amount of tax deducted as should have been reflected on the form, specifically amounts in respect of the payments to Flo and De-Boer. A penalty can be sought of up to the amount of the tax not paid.

In this case to show that there has been neglect I would point to the side agreements setting out that the payments will be made to the players and that in both instances the letters indicate that the funds will be paid "to you".

There are two conclusions to draw from these letters.

1. The scheme as provided did not anticipate or include that these guarantees would be given to the employees in respect of the payments so any advice given was not therefore on the facts of the case as implemented by RFC.

2. The employer always intended the funds to be paid to the employee and must have known that there was never any possibility that the funds would not be paid to them otherwise they could not offer the guarantees they did.

In the first case the employer has been negligent as it does not appear that it took advice on what it had done. It merely relied on the standard scheme advice despite being fully aware that the side agreements were not part of that scheme. The side agreements are signed by the Finance Director, someone who should have understood the position and the implications of what he was doing.

In the second case, the fact that existence of the side agreements was denied demonstrates a wish to present only the form of the scheme arrangements rather than the whole circumstances. It could possibly be argued that taken as a whole this was a fraudulent intention to deceive HMRC but is at the very least negligence.

It is only necessary to show the negligent standard of conduct for the purpose of pursuing a penalty under S98A(4)TMA70 and that is my conclusion.

Craig Moore
In the case of Moore we have not been provided with any side agreement guarantee. However in a letter from Murray Group Tax Department it was categorically denied that there were side letters for Flo, De-Boer or Moore. We were subsequently given side agreement letters for Flo and De-Boer and so it is reasonable to assume that despite the denials made there is a similar letter for Moore. We have just not been given it. There is a document dated 3 August 1999 setting out that he will be told how the scheme works and that he is bound to keep the information confidential. So it was discussed before any of the arrangements being put into place for the payments he eventually received.

The Reg 80 direction on RFC [in relation to Moore] was made for the year 1999/2000 and was made in September 2007 as an Extended time limit (ETL) assessment as the normal time limit (6 years) had expired.

In making the offer to settle on informal lines following AAM (as set out in my letter of 26 November 2010) it was accepted that no penalty would be pursued. This was on the basis that the employer had taken legal opinion that what they were doing was sound. This is based on an assumption that all documents in relation to the payments had been provided for that opinion to be fully informed.

However in viewing this case on its merits on the assumption that the arrangements were similar and carried out by the same employer I would assert that there was deliberate conduct here even without production of a side agreement specifically for Moore.

We have a spreadsheet showing the amount for Moore set out and a comparison of the positions with and without tax. The spreadsheet is called "Player Special Deals" and the payment referred to is the C.P. transfer (Crystal Palace).

In operating the scheme for the other two players the employer is aware that there is no possibility that the Trustees will exercise their option. They could not provide

guarantees otherwise. The arrangements here are similar to the others and so can be viewed similarly on the balance of probabilities.

If it is established that there is neglect in not taxing this payment then the technical taxation analysis for AAM applies and receipt of the "keys to the money box" will trigger the PAYE charge.

Moore was employed between 1 April 1999 to 6 January 2005 and received the "keys to the money box" on 17 September 1999.

The assessment was made on the net basis and would require to be increased on amendment to pay of £250,000 taxed at 40% for 1999/00.

A penalty determination under S98 TMA1970 will be required, which will again be an ETL assessment.

If it is not established that there has been neglect then this assessment will fall as it was ETL when made.

Residence
It was contended by the employer that the employees were not resident at the time when the payments/transfer of shares were made and so no tax would be due in respect of the payments. It is not accepted that the employer can make that residence determination and has no authority to do so. In all cases it is contended that entitlement or actual payment was made at a time when the employees were in employment or on the last day of the employment and so tax on the full cumulative pay should have been deducted and accounted for by the employer.

H M Inspector of Taxes
23 February 2011

202A Assessment on receipts basis
202A(1) As regards any particular year of assessment–
(a) income tax shall be charged under Cases I and II of Schedule E on the full amount of the emoluments received in the year in respect of the office or employment concerned;
(b) income tax shall be charged under Case III of Schedule E on the full amount of the emoluments received in the United Kingdom in the year in respect of the office or employment concerned.
202A(2) Subsection (1) above applies–
(a) whether the emoluments are for that year or for some other year of assessment;
(b) whether or not the office or employment concerned is held at the time the emoluments are received or (as the case may be) received in the United Kingdom.
202A(3) Where subsection (1) above applies in the case of emoluments received, or (as the case may be) received in the United Kingdom, after the death of the person

who held the office or employment concerned, the charge shall be a charge on his executors or administrators; and accordingly income tax–

(a) shall be assessed and charged on the executors or administrators, and

(b) shall be a debt due from and payable out of the deceased's estate.

202A(4) Section 202B shall have effect for the purposes of subsection (1)(a) above.

202B Receipts basis: meaning of receipt

202B(1) For the purposes of section 202A(1)(a) emoluments shall be treated as received at the time found in accordance with the following rules (taking the earlier or earliest time in a case where more than one rule applies)–

(a) the time when payment is made of or on account of the emoluments;

(b) the time when a person becomes entitled to payment of or on account of the emoluments;

(c) in a case where the emoluments are from an office or employment with a company, the holder of the office or employment is a director of the company and sums on account of the emoluments are credited in the company's accounts or records, the time when sums on account of the emoluments are so credited;

(d) in a case where the emoluments are from an office or employment with a company, the holder of the office or employment is a director of the company and the amount of the emoluments for a period is determined before the period ends, the time when the period ends;

(e) in a case where the emoluments are from an office or employment with a company, the holder of the office or employment is a director of the company and the amount of the emoluments for a period is not known until the amount is determined after the period has ended, the time when the amount is determined.

202B(2) Subsection (1)(c) , (d) or (e) above applies whether or not the office or employment concerned is that of director.

202B(3) Paragraph (c) , (d) or (e) of subsection (1) above applies if the holder of the office or employment is a director of the company at any time in the year of assessment in which the time mentioned in the paragraph concerned falls.

202B(4) For the purposes of the rule in subsection (1)(c) above, any fetter on the right to draw the sums is to be disregarded.

202B(5) In subsection (1) above " **director** " means–

(a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body,

(b) in relation to a company whose affairs are managed by a single director or similar person, that director or person, and

(c) in relation to a company whose affairs are managed by the members themselves, a member of the company.

202B(6) In subsection (1) above " **director** ", in relation to a company, also includes any person in accordance with whose directions or instructions the company's directors (as defined in subsection (5) above) are accustomed to act; and for this purpose a person is not to be deemed to be a person in accordance with whose directions or instructions the company's directors are accustomed to act by reason only that the directors act on advice given by him in a professional capacity.

202B(7) Subsections (1) to (6) above shall have effect subject to subsections (8) to (11) below.

202B(8) In a case where section 141(1)(a) , 142(1)(a) or 143(1)(a) treats a person as receiving or being paid an emolument or emoluments at a particular time, for the purposes of section 202A(1)(a) the emolument or emoluments shall be treated as received at that time; and in such a case subsections (1) to (6) above shall not apply.
202B(9) In a case where section 145(1) treats a person as receiving emoluments, for the purposes of section 202A(1)(a) the emoluments shall be treated as received in the period referred to in section 145(1) ; and in such a case subsections (1) to (6) above shall not apply.
202B(10) In a case where section 154(1) , 157(1) , 158(1) , 160(1) , 160(2) , 162(6) or 164(1) treats an amount as emoluments, for the purposes of section 202A(1)(a) the emoluments shall be treated as received in the year referred to in section 154(1) or the other provision concerned; and in such a case subsections (1) to (6) above shall not apply.
202B(11) In a case where–
(a) emoluments take the form of a benefit not consisting of money, and
(b) subsection (8) , (9) or (10) above does not apply,
for the purposes of section 202A(1)(a) the emoluments shall be treated as received at the time when the benefit is provided; and in such a case subsections (1) to (6) above shall not apply.

203B PAYE: payment by intermediary

203B(1) Subject to subsection (2) below, where any payment of, or on account of, assessable income of an employee is made by an intermediary of the employer, the employer shall be treated, for the purposes of PAYE regulations, as making a payment of that income of an amount equal to the amount determined in accordance with subsection (3) below.
203B(2) Subsection (1) above does not apply if the intermediary (whether or not he is a person to whom section 203 and PAYE regulations apply) deducts income tax from the payment he makes and accounts for it in accordance with PAYE regulations.
203B(3) The amount referred to is–
(a) if the amount of the payment made by the intermediary is an amount to which the recipient is entitled after deduction of any income tax, the aggregate of the amount of that payment and the amount of any income tax due; and
(b) in any other case, the amount of the payment made by the intermediary.
203B(4) For the purposes of this section, a payment of, or on account of, assessable income of an employee is made by an intermediary of the employer if it is made–
(a) by a person acting on behalf of the employer and at the expense of the employer or a person connected with him; or
(b) by trustees holding property for any persons who include or class of persons which includes the employee.
203B(5) Section 839 applies for the purposes of subsection (4) above.

The Rangers Football Club Plc

Reg 80 and S8 Decisions
Figures Based upon Facts with Side agreements

Tax

Year	NTL/ETL	Issued	Appeal	Name	Pay Amount	Tax	Grossed up	Tax	Tax Rate %
1999/2000	ETL	28-Sep-07	26-Oct-07	Craig Moore	150,000	34500.00	250000	100,000.00	40
2000/01	ETL	To be issued		Ronald De-Boer	276,365		460608	184,243.20	40
2001/02	ETL	To be issued		Ronald De-Boer	561,051		935084	374,033.60	40
2002/03	ETL	To be issued		Ronald De-Boer	280,076		466793	186,717.20	40
2002/03	ETL	To be issued		Tore Andre Flo	1,150,000		1916666	766,666.40	40
							Total Tax	1,611,660.40	

NICs

Year	Notice	Issued	Appeal	Name	Assessed	Amended amount	%
1999/2000	S8 Decision	28-Sep-07	26-Oct-07	Craig Moore	18300	29750.00	11.9
2000/01	S8 Decision	To be issued		Ronald De-Boer		54812.35	11.9
2001/02	S8 Decision	To be issued		Ronald De-Boer		111275.00	11.9
2002/03	S8 Decision	To be issued		Ronald De-Boer		55081.57	11.8
2002/03	S8 Decision	To be issued		Tore Andre Flo		226166.59	11.8
					Total NICs	477,085.51	

Total Liability

Year	Tax	NIC	Interest	Total
1999/2000	100,000.00	29750.00	90013.12	219,763.12
2000/01	184,243.20	54812.35	145578.5	384,634.09
2001/02	374,033.60	111275.00	261191.1	746,499.71
2002/03	953,383.60	281248.16	584442.6	1,819,074.31
				3,169,971.23

Total Tax and NICs	£2,088,745.91
Interest to 31 May 2011	£1,081,225.32
Penalty under S98 TMA70	-
Total for Settlement plus S98 Penalty	**£3,169,971.23**

The Rangers Football Club Plc

Reg 80 and S8 Decisions
Based on Aberdeen Asset Management lines of "keys to the money box"

Tax Year	NTL/ETL	Issued	Appeal	Name	Pay Amount	Tax	Grossed up	Tax	Tax Rate %	Year
1999/2000	ETL	28-Sep-07	26-Oct-07	Craig Moore	150,000	34500.00	250000	100,000.00	40	1999/00
2003/2004	NTL	28-Sep-07	26-Oct-07	Tore Andre Flo	1155733	254261.26	1481708.974	325,975.97	22	2003/04
2004/2005	NTL	28-Sep-07	26-Oct-07.	Ronald De Boer	1023829	225242.38	1706381.667	682,552.67	40	2003/04
						514003.64	Total Tax	1,108,528.64		

NICs Year	Notice	Issued	Appeal	Name	Amount Assessed	Amended amount
1999/2000	S8 Decision	28-Sep-07	26-Oct-07	Craig Moore	18300	30500.00
2003/04	S8 Decision	28-Sep-07	26-Oct-07	Tore Andre Flo	159491.15	204475.70
2004/05	S8 Decision	28-Sep-07	26-Oct-07	Ronald De Boer	141288.4	235480.57
					Total NICs	470,456.27

Total Liabil	Tax	NIC	Interest	Total
1999/00	100,000.00	30500.00	90533.42	221,033.42
2003/04	325,975.97	204475.70	218390.7	748,842.34
2004/05	682,552.67	235480.57	312808.4	1,230,841.65
				2,200,717.41

Total Tax and NICs	£1,578,984.91
Interest to 31 May 2011	621732.50
Total for Settlement	**£2,200,717.41**

THE
RANGERS
FOOTBALL CLUB plc
Founded 1873

DJO/sh

30 August 2000

Mr Ronald de Boer

Barcelona

Dear Ronald,

Further to discussions, I confirm that the Club is prepared to arrange net payments to you every six months commencing 1 January 2001 until 31 May 2004 of NLG 1,000,000 (in total eight instalments). The Club is taking appropriate professional/legal advice in relation to the documentation concerning these payments. However, I can confirm that the payments are not contractual being not related to your proposed contract of employment with the Club nor representing an inducement to enter a new contract with the Club.

Yours sincerely,

D. J. ODAM
FINANCE DIRECTOR

THE
RANGERS
FOOTBALL CLUB plc
Founded 1873

DJO/sh

23 November 2000

Mr Tore Andre Flo
Richmond House

Dear Tore,

Further to discussions, I confirm that Rangers Football Club will arrange net payments into a fund under the Club's Employee Benefit Trust for your benefit as follows:-

30 November 2000	£450,000
30 November 2001	£700,000
30 November 2002	£700,000
30 November 2003	£500,000
30 November 2004	£500,000

Each of these amounts will paid into the Trust on the due dates on condition that you have been registered with the Club on the due dates, except that £200,000 of the sums due in each of 2001 and 2002 are unconditional. The total funds including investment returns will become payable to you immediately after 31 May 2005 or earlier date of termination of your contract.

The Club is taking appropriate professional/legal advice in relation to the documentation concerning these payments. However, I can confirm that the payments are not contractual being not related to your proposed contract of employment with the Club nor represent an inducement to enter a new contract with the Club

The Club indemnifies you against any liability including the UK and Norway to income tax on amounts receivable by you under the arrangement subject to you advising any movement of funds to enable the Club to offer appropriate advice to limit any exposure under this indemnity, such advice not to be unreasonably rejected.

The terms of this letter are and must remain strictly confidential

Yours sincerely,

D. J. ODAM
FINANCE DIRECTOR

MURRAY GROUP - RANGERS FOOTBALL CLUB ("the Club")

DISCOUNTED OPTION SCHEME

OPINION

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1. This scheme was undertaken for three players at the Club. The question is whether the Club should fight a tax appeal on the basis that the scheme worked or accept PAYE liability.

2. Although there is a substantial file, it contains very little material really relevant to the issues. The scheme was carried out in a way which suggests that arguing the case would be an uphill task. However, the deciding factor in favour of settling the matter is the existence of side letters in two instances demonstrating that there was a true intention of putting cash into the hands of the players as part of their remuneration package. It does not help either that the existence of these letters has been denied or not revealed by the Club.

3. In this state of affairs, it would be sensible to seek a settlement. This appears to be HMRC's wish. I would strongly recommend this course.

ANDREW THORNHILL QC
Pump Court Tax Chambers
16 Bedford Row
London WC1R 4EF

03 March 2011

PRESENTED BY MIKE McGILL TO HMRC ON 21 MARCH 2011.

The Rangers Football Club plc
Discounted Option Scheme

PROPOSED SETTLEMENT BASED ON HMRC CALCULATION AND AMENDED PAYMENTS

Expanded calculation TAF taxable on date left club/RDB taxable on payment due date (HMRC revised calculation of February 2011 - corrected as per notes)	Year of assessment	Contributions	Grossed-up at 40% (100/60) A	Tax rate B	Income Tax A x B	NI rate C	NIC A x C	Total Tax & NIC	Due Date	Cumulative Int rate	Int to 31/05/2011	Total Settlement
Craig Moore	1999/2000	150,000	250,000	40%	100,000	11.9%	29,750	129,750	19/04/2000	69.37%	90,013	0
Tore Andre Flo (30/8/02)	2002/03	1,155,731	1,926,218	40%	770,487	11.8%	227,294	997,781	19/04/2003	47.34%	472,323	1,470,104
Ronald de Boer	2000/01	276,365	460,608	40%	184,243	11.9%	54,812	239,055	19/04/2001	60.90%	145,579	384,634
Ronald de Boer	2001/02	278,629	464,382	40%	185,753	11.9%	55,261	241,014	19/04/2002	53.82%	129,713	370,727
Ronald de Boer	2001/02	453,575	755,958	40%	302,383	11.8%	89,203	391,586	19/04/2002	53.82%	210,750	602,336
												2,827,801

ACCEPTED IN PRINCIPLE BY HMRC
NO PENALTIES
ALL ON W/OUT PREJ. BASIS.

DH. 21/3/11

Annex VII – Correspondence between HMRC and Rangers including Section 80 determinations

HM Revenue & Customs

Local Compliance
Large & Complex Businesses
Elgin House
20 Haymarket Yards
Edinburgh
EH12 5WN

Phone 0131 346 5541
8.30am to 5.00pm Monday to Friday

www.hmrc.gov.uk

Murray International Holdings Ltd
9 Charlotte Square
Edinburgh
EH2 4DR

For Attention Mr D Horne Company Secretary
Murray Group

Date 5 May 2011
Our ref 809/22710 20571/LBT1/KRM

Dear Mr Horne,

The Rangers Football Club Plc (RFC) – Discount Option Scheme/Value Shift Scheme (DOS)

Following our brief conversation after the Tribunal business yesterday I now enclose an offer for signature by the officers of The Rangers Football Club Plc.

Following receipt of the signed offer I will issue a letter of acceptance. The club then has 30 days to pay over the sum, c. £2.8m. If the sum is not paid within 30 days of acceptance then interest would accrue as set out in the offer document and the collector would pursue the debt.

I agreed with Mr McIntyre that as I saw no grounds for appeal, as the liability is agreed, I would await developments regarding a potential takeover but as considerable time has now past I cannot allow this to drift any more. Therefore, if I do not receive the signed offer by 16 May 2011 then I shall institute formal proceedings to seek collection of all the Tax, NICs interest and a penalty for submission of the incorrect forms P35 each year arising from the use of the Discounted Option Scheme to remunerate the players involved.

I trust that the above is clear but if you or Mr McIntyre wish to discuss this further please do not hesitate to contact me. I will be away on business Monday and Tuesday 9 & 10 May but back in the office on Wednesday.

Yours faithfully

Keith McCurrach
H M Inspector of Taxes

Cc Mr D McIntyre RFC Company Secretary

TO THE COMMISSIONERS FOR HER MAJESTY'S REVENUE AND CUSTOMS

The duties on the statement below are unpaid, wholly or in part, because of the failure of the company to meet all its obligations under the Taxes Acts with regard to payments to Ronald De-Boer and Tore Andre Flo through the "Discounted Option Scheme", being a marketed PAYE avoidance scheme. On the basis that no proceedings are taken against the company for those duties or for the penalties and interest on them

The Rangers Football Club Plc.

of IBROX STADIUM 150 EDMISTON DRIVE GLASGOW G51 2XD

offers the sum of £ 2,827,801.00

The sum of £ 2,827,801.00 will be paid within 30 days of the date of your letter accepting this offer.

If the full sum has not been paid by that day, interest at the rate which applies for Section 86 Taxes Management Act 1970 and which may be varied from time to time will also be payable on any unpaid balance from that day. This interest will be payable without deduction of tax.

Statement of Duties

Year	Nature of Duty	Amount £
2002/03	Income Tax	770,487
2001/02	Income Tax	486,136
2000/01	Income Tax	184,243
2002/03	National Insurance Contributions	227,294
2001/02	National Insurance Contributions	144,464
2000/01	National Insurance Contributions	54,812

Signed on behalf of the company

_____ (Director) Date

_____ Company Secretary Date

P776612655

IN THE COURT OF SESSION

UNTO THE RIGHT HONOURABLE THE LORDS OF COUNCIL AND SESSION

INVENTORY OF PRODUCTIONS ON BEHALF OF THE RESPONDENT

THE PETITION OF

RANGERS FOOTBALL CLUB PLC

for

SUSPENSION AND INTERIM SUSPENSION

7/1	Letter from HM Inspector of Taxes to the Rangers Football Club PLC (Redacted by Respondents)
7/2	Notice of Regulation 80 Determination Year 2000/2001
7/3	Notice of Regulation 80 Determination Year 2001/2002
7/4	Notice of Regulation 80 Determination Year 2002/2003
7/5	Notice of Decision, National Insurance Contributions and Statutory Payments, 20 May 2011, in respect of RDB (Redacted by Respondents)
7/6	Notice of Decision, National Insurance Contributions and Statutory Payments, 20 May 2011, in respect of TAF (Redacted by Respondents)
7/7	Application under section 128 of the Finance Act 2008 in the Sheriffdom of Glasgow and Strathkelvin at Glasgow (Redacted by Respondents)
7/8	Summary Warrant under section 128(6) of the Finance Act 2009 dated 1 August 2011
7/9	Charge for Payment of Money dated 10 August 2011
7/10	Execution of Charge dated 10 August 2011

711

167

HM Revenue & Customs

Local Compliance
Large & Complex Businesses
Elgin House
20 Haymarket Yards
Edinburgh
EH12 5WN

Phone 0131 [redacted]
8.30am to 5.00pm Monday to Friday

www.hmrc.gov.uk

The Rangers Football Club PLC
Ibrox Stadium
150 Edmiston Drive
Glasgow
G51 2XD
For Attention of Mr D McIntyre Company Secretary

VP Documentation

Date 20 May 2011
Our ref 809/48190 12881/LBT1/[redacted]

Dear Mr McIntyre,

The Rangers Football Club Plc (RFC)
Discounted Option Scheme (DOS) – Failure to operate PAYE 2000/01 to 2002/03
Decision letter

Further to my letters dated 23 February 2011 and 16 May 2011 I have arranged for formal determinations under Regulation 80 for tax and Section 8 Decisions for NICs, hereafter called assessments, to be issued to the company in respect of the failure to operate PAYE in respect of the payments to Tore Andre Flo and Ronald De-Boer.

I have decided to make the assessments as it is my view that the amounts reflected in the assessments arise due to the deliberate failure or fraudulent behaviour of the company.

Tore Andre Flo
In a side-letter dated 23 November 2000 RFC agree to arrange net payments into a fund under the Club's Employee Benefit Trust for the benefit of Tore Andre Flo at specified dates. This letter is dated the same day that Flo signs his employment contract with RFC. £200,000 of the sums are unconditional and the rest is conditional upon Flo being a registered player with RFC at the specified dates.

The relevant amounts referred to in the letter are:-
30 November 2000 £450,000
30 November 2001 £700,000....

The letter states "The total funds including investment returns will become payable to you immediately after 31 May 2005 or earlier date of termination on your contract."

"Net payments" are net of PAYE so for assessment purposes the amounts paid need grossed up. The amounts paid were in sterling and were £1,150,000 this is additional remuneration on top of salary for the year.

An additional £5733 was also paid to Flo. The side letter indicates that the proceeds of any investment returns will also be due to be paid to Flo and I assume that these are the investment funds referred to. These will be chargeable on either Flo personally, the Trust, the companies holding the funds or the employer. I am prepared to ignore these for the purposes of assessment but the Tribunal may wish to come to its own conclusions as to the treatment of this sum and increase the assessments on appeal.

On 30 August 2002 Flo was sold by RFC and transferred to Sunderland FC. Flo received another side agreement letter superseding the side-letter dated 23 November 2000 and so only the above payments were made under the original agreement. Additional subsequent payments were made through MGMRT in respect of Flo agreeing to release RFC from their obligations under his existing contract.

Under S202A(1) TA 1988 income tax shall be charged on the full amount of the emoluments received for the year... S202B(1) states that the time for S202A(1)(a) shall be found in accordance with (a) the time when payment is made of or on account of the emoluments; or (b) the time when a person becomes entitled to payment of or on account of the emoluments; and be the earlier of these times.

Following the judgement in the First Tier Tribunal case of Aberdeen Asset Management Ltd, involving a similar DOS scheme, the date that the "keys to the money box" were handed to Flo was 7 October 2003 when the Trustees wrote to him to say that he had all the share capital in the vehicle companies. That would mean assessment for 2003/04, 202B(1)(a) on receipt.

However, the side agreement letter sets out that the funds will become payable immediately to Flo on termination of his contract. As Flo becomes entitled to payment on 30 August 2002 the year of assessment is 2002/03, 202(B)(1)(b) applies.

Since, entitlement arises at the earlier date, the date of termination, the assessable amount should be the £1.15m grossed up at the rate applicable for the year and that will be 40%. This gives an assessable pay figure of £1,916,666 for 2002/03.

Ronald De Boer

De Boer was given a side-letter dated 30 August 2000, the same day that he signed his playing contract, setting out that the employer would arrange net payments of 1m Guilders to him every 6 months, a total of 8 payments from 1 January to 31 May 2004 were promised. The technical arguments for the payments to Flo apply equally to the De-Boer payments.

The side letter states "I confirm that the club is prepared to arrange net payments to you every six months...."

He was employed from 30 August 2000 to 23 August 2004 and so all of the payments set out were made. The currency changed from Guilders to Euro on 1 January 2001 but this is not considered relevant beyond the exchange rate to be used. The first 4 payments were through the Rangers EBT but De Boer received the final 4 payments set out in the side letter through the MGMRT from Feb 2003.

In a letter dated 14 January 2002 Douglas Odam (RFC) sets out that €453,780 is equivalent to NLG 1million. This exchange rate has been taken for the calculations and converted to sterling. £280,076 equals €453,780. Exchange rates used for the earlier payments are averaged approximations rather than spot rates for the day.

The schedule of dates for payments is:-

			Grossed-up	Year
1 January 2001	2000/01 NLG 1 million	= £276,365	£460,608	2000/01
31 May 2001	2001/02 NLG 1 million	= £278,629	£464,381	2001/02
1 January 2002	2001/02 NLG 1 million	= £282,422	£470,703	2001/02
31May 2002	2002/03 €453780	= £280,076	£466,793	2002/03

As De-Boer was an employee when the payments were made then all the payments made would be grossed up and chargeable at the higher rate.

The arguments about deliberate or fraudulent behaviour in the case of Flo apply equally to De-Boer. The side letters provide the entitlement and the employer was aware that the payments ought to have been made under PAYE. It would appear that no professional guidance was taken on the position including the side agreements that gave rise to the payments.

Operation of PAYE
Side agreements on their own
The employer paid the employees and deducted PAYE in accordance with the rules for payments made under the contract that was registered with the SFA, the main contract, so it knew that PAYE was required to be operated. The employer also knew that the side-letter payments should be subject to PAYE. Indeed there would be no other logical explanation to describe the payments as net in the agreement and then go on to indemnify the employee from any tax liability if that were not so.

Under the side agreements the employer has given the employee an entitlement that crystallises at the dates set out. S202B (1) (b) provides that the emoluments are treated as received when the person becomes entitled to the payments. The employer has then gone on to meet that entitlement by paying the funds through the scheme arrangements. In failing to deduct or remit the tax at the time of entitlement the employer has deliberately failed in its obligations.

There is no suggestion here of a lack of care or an innocent mistake, this was a deliberate attempt to reduce its outgoings and retain the amounts of tax etc. for its own purposes.

Side agreements with the scheme
Alternatively, it could be viewed that in adding the side agreement to the scheme they have departed from the scheme or added to it. Although I have not seen it I assume that the professional advice given will have been on the basis that the scheme supplied was put into practice without deviation. I understand that the scheme is said to work on the basis that there is a genuine possibility that options would be called up by the Trust and so the value of the shares held by the employee would then be negligible. If the employer had already given a guarantee that the funds will be immediately payable, as they have, then the employer must be aware that the Trustees would not exercise the option proposed by the scheme. It can therefore be seen as a sham set of arrangements. If the trustees had exercised their options then the employer would still have been liable to performance of the side agreements and find another way to make the payments. It is inconceivable that this would have happened as no one would have benefited.

I assume that the employer took advice on the DOS and was, no doubt, told that the payments would escape the PAYE as the arrangements were designed that way. The key event being that there was an option to discount the value of cash held in the vehicle company. I assume that the advice given was without the knowledge that side agreements had been provided to the employees.

It would therefore seem clear that there has been a deliberate attempt to withhold the taxes and NICs that should have appeared on the relevant forms P35 each year and the taxes and NICs that should then have been remitted.

In any event, by the employer giving the side agreement assurances the scheme has not been implemented as supplied.

NICs
The payments into the SPVs used represent earnings for each of the employees and are subject to Class 1 contributions on the same basis as the PAYE tax.

Extended Time Limits

Assessments for 2000/01 to 2002/03 are out of normal assessing time limits now and so we need to consider if there has been deliberate behaviour on the part of the employer in submitting an incorrect P35. Deliberate behaviour is described at CH53700 in HMRC guidance manuals as "describing transactions inaccurately or in a way to mislead".

The existence of the side-letter agreements for the employees involved was specifically denied in Murray Group letter dated 7 April 2005 shortly after the enquiry into the scheme commenced. This was in response to a specific request for any such documents. The side-letter agreement for Flo and De-Boer were provided later in June 2009 in connection with HMRC enquiries into the Murray Group Management Remuneration Trust (MGMRT). The scheme and fact pattern as presented could not be considered complete without the side-letters that were the trigger for the arrangements. The arrangements that were presented were a façade in front of the actual obligation to pay the individuals as set out in the side-letters.

In finding these side-letters HMRC has made a discovery within the terms of Regulation 80 of Income Tax (Pay As You Earn) Regulations 2003: SI 2003 No2682. Section 36(1) as amended by FA89/S149 and Schedule 39 FA2008 provides the authority for determinations outside the normal (6 year) time limits, up to 20 years may be made where there has been a loss of tax attributable to deliberate conduct.

National Insurance contributions may be recovered by a decision under Section 8 of the Social Security Contributions (Transfer of Functions) Act 1999. Similar time limits to the Reg80 apply in Scotland.

The employer made a commitment to each employee in the side agreements that they would pay the agreed net amounts. In the case of Flo some of this was unconditional and some conditional on him being an employee at the relevant dates. Despite stating to the contrary the payments are contractual and directly related to the employment.
The terms of the documents are clear and are signed by the Finance Director. So the side agreements in themselves operate as contractual entitlements to the emoluments and the vehicle used to meet that obligation is the DOS.

I am currently considering the penalty position in relation to the incorrect form P35 for the years concerned and will write to you in this regard in the near future.

Yours sincerely,

[redacted]
H M Inspector of Taxes

712 107c

File Copy

Notice of Regulation 80 Determination

SAFE reference number: XC000010012276I

Employer's PAYE reference: 961/7612781

Amount determined: 184243.00

Year: 2000-01

Tax determined under Regulation 80 Income Tax (Pay as You Earn) Regulations 2003

Employer's name and address:
The Rangers Football Club Plc
Ibrox Stadium
150 Edmiston Drive
Glasgow
G51 2XD

Accounts Office reference	Office number	Check Character	Number
	961	PN	7612781

Date of issue: 20/05/2011

Agent's name and address:

Agent's ref:

Statement of tax due - *the letter 'E' before any amount shows that the figure is estimated*

Name and National Insurance number of employee - enter 'D' in right-hand space if a Director	D	Pay for which tax remains unpaid (£) 2	Total pay (£) 3	PAYE code 4	Tax payable at Month 12 of the Tax Tables 5	Tax paid or certified 6	Tax now due Column 5 minus 6 7
1							
Ronald De Boer SC298487D		460608	460608	D0	184243.00	0.00	184243.00
							0.00
					Brought forward from P380(A) (Continuation) sheets		0.00
					Amount determined		184243.00

Notes

Interest
The law allows interest to be charged on the amount determined from 14 days after the end of the tax year to which the determination relates.

	Amount £	Initials	Date
Stand over			
Discharge			
Release			
Increase			
P382 to employer (date only)			

P380 (A)

713 1078

File Copy

Notice of Regulation 80 Determination

SAFE reference number: XC0000100122761

Employer's PAYE reference: 961/7612781

Amount determined: 374033.60

Year: 2001-02

Tax determined under Regulation 80 Income Tax (Pay as You Earn) Regulations 2003

Employer's name and address:
The Rangers Football Club Plc
Ibrox Stadium
150 Edmiston Drive
Glasgow
G51 2XD

Office number	Check Character	Number
961	PN	7612781

Accounts Office reference

Date of issue: 20/05/2011

Agent's name and address:

Agent's ref:

Statement of tax due - *the letter 'E' before any amount shows that the figure is estimated*

Name and National Insurance number of employee - enter 'D' in right-hand space if a Director	D	Pay for which tax remains unpaid (£)	Total pay (£)	PAYE code	Tax payable at Month 12 of the Tax Tables	Tax paid or certified	Tax now due Column 5 minus 6
1		2	3	4	5	6	7
Ronald De Boer SC298487D		935084	935084	D0	374033.60	0.00	374033.60
							0.00
					Brought forward from P380(A) (Continuation) sheets		0.00
					Amount determined		374033.60

Notes

Interest
The law allows interest to be charged on the amount determined from 14 days after the end of the tax year to which the determination relates.

	Amount £	Initials	Date
Stand over			
Discharge			
Release			
Increase			
P382 to employer (date only)			

P380 (A)

7/4 107e

File Copy

Notice of Regulation 80 Determination

SAFE reference number: XC000010O122761

Employer's PAYE reference: 961/7612781

Amount determined: 953383.86

Year: 2002-03

Tax determined under Regulation 80 Income Tax (Pay as You Earn) Regulations 2003

Employer's name and address:
The Rangers Football Club Plc
Ibrox Stadium
150 Edmiston Drive
Glasgow
G51 2XD

Office number	Check Character	Number
961	PN	7612781

Accounts Office reference

Date of issue: 20/05/2011

Agent's name and address:

Agent's ref:

Statement of tax due - *the letter 'E' before any amount shows that the figure is estimated*

Name and National Insurance number of employee - enter 'D' in right-hand space if a Director	D	Pay for which tax remains unpaid (£) 2	Total pay (£) 3	PAYE code 4	Tax payable at Month 12 of the Tax Tables 5	Tax paid or certified 6	Tax now due Column 5 minus 6 7
Tore Andre Flo TN150673M		1916666	1916666	D0	766666.66	0.00	766666.66
Rorlald De-Boer SC298487D		466793	466793		186717.20		186717.20
							0.00
						Brought forward from P380(A) (Continuation) sheets	0.00
						Amount determined	953383.86

Notes

Interest
The law allows interest to be charged on the amount determined from 14 days after the end of the tax year to which the determination relates.

	Amount £	Initials	Date
Stand over			
Discharge			
Release			
Increase			
P382 to employer (date only)			

P380 (A)

715 (016

HM Revenue & Customs

Notice of decision

Retain with the papers

Local Compliance
Specialist Employer Compliance
King House
George Street West
Luton
Beds
LU1 2DZ

Phone 0131 3465541

Reference 961/761278

Date 20 May 2011

The Rangers Football Club Plc
Ibrox Stadium
150 Edmiston Drive
Glasgow
G51 2XD

National Insurance contributions and statutory payments

My decision is that:

The Rangers Football Club Plc is liable to pay primary and secondary Class 1 contributions for the period from 6 April 2000 to 5 April 2003 in respect of the earnings of Ronald De-Boer, National Insurance number SC298487D.

The amount The Rangers Football Club Plc is liable to pay in respect of those earnings is £221,168.92.

The amount The Rangers Football Club Plc has paid in respect of those earnings is £0.00.

Please read

- the notes on the next page that give you some information about this decision and tell you what you can do next, and
- any covering letter if enclosed.

[redacted]
Officer of HM Revenue & Customs

Notes

General

If you have a professional adviser or agent you may want to show them this notice.

This notice contains my formal decision. You will find details of how the decision has been reached and additional information in the accompanying letter.

Each person named in the notice is sent the notice of decision.

Variation of decision

A decision may be varied if the original is found to be wrong. If a decision is varied we will tell you. If you appeal against the decision but agree with a varied decision please let me know.

Payment

If you accept this decision please pay any outstanding amount of National Insurance contributions due from you using the enclosed payslip.

If the decision is about statutory payments pay any outstanding amounts that the employee is entitled to as detailed in the decision.

Appeals

If you do not agree with this decision you may appeal. If you appealed against the original decision that has been varied then you cannot appeal against the varied decision. That is because the original appeal still stands.

If you want to appeal write within 30 days of the date of this notice telling me why you think the decision is wrong. I will consider what you say and tell you whether I agree.

Each person named in the decision can appeal.

You can find further information in factsheet HMRC1. The factsheet can be found on our website at **www.hmrc.gov.uk/factsheet/hmrc1.pdf** or by phoning:

- the Employer Orderline on **08457 646 646** if you are an employer, or
- the Orderline on **0845 900 0404** if you are not an employer.

Interest and penalties

Interest may be charged on National Insurance contributions paid late. You may also be charged penalties.

Penalties may be incurred for non-payment of any statutory payments which are due.

If you want more information about interest and/or penalties contact the person who sent this notice to you.

716 107a

HM Revenue & Customs

Notice of decision

Retain with the papers

Local Compliance
Specialist Employer Compliance
King House
George Street West
Luton
Beds
LU1 2DZ

Phone 0131 3465541

The Rangers Football Club Plc
Ibrox Stadium
150 Edmiston Drive
Glasgow
G51 2XD

Reference 961/76127B1

Date 20 May 2011

tional Insurance contributions and statutory payments

My decision is that:

The Rangers Football Club Plc is liable to pay primary and secondary Class 1 contributions for the period from 6 April 2002 to 5 April 2003 in respect of the earnings of Tore Andre Flo, National Insurance number TN150673M.

The amount The Rangers Football Club Plc is liable to pay in respect of those earnings is £266,166.59.

The amount The Rangers Football Club Plc has paid in respect of those earnings is £0.00.

Please read

- the notes on the next page that give you some information about this decision and tell you what you can do next, and
- any covering letter if enclosed.

[redacted]

Officer of HM Revenue & Customs

Notes

General

If you have a professional adviser or agent you may want to show them this notice.

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You can find further information in factsheet HMRC1. The factsheet can be found on our website at **www.hmrc.gov.uk/factsheet/hmrc1.pdf** or by phoning:

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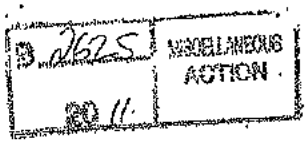
If you want more information about interest and/or penalties contact the person who sent this notice to you.



Sheriffdom of GLASGOW AND STRATHKELVIN
at GLASGOW

Application

Under Section 128 of the Finance Act 2008

of

[redacted] Officer of Revenue & Customs, Enforcement & Insolvency, Elgin House, 20 Haymarket Yards, EDINBURGH, EH12 5WT

Applicant

The Applicant craves the Court to grant Summary Warrant, in accordance with Section 128 of the Finance Act 2008 for the recovery of the sums payable under or by virtue of any enactment or under a contract settlement to the Commissioners for Her Majesty's Revenue and Customs entered on the Schedule consisting of 1 page annexed and subscribed by the Applicant as relative to this Application

Condescendence

The several persons whose names are entered on the Schedule are respectively due to pay the sums (inclusive of interest payable under or by virtue of any enactment or under a contract settlement) placed opposite to their respective names.

Plea-in-Law

The sums entered on the Schedule being payable, warrant for the recovery of those sums should be granted as craved.

[redacted] Applicant
29/07/11

Certificate

I, Andrew Gardner, Officer of Revenue & Customs, Debt Management Edinburgh, hereby certify in accordance with the provisions of Section 128 of the Finance Act 2008:

a) that none of the persons specified in the Schedule to this Application has paid the sum payable by him/her/it;

b) that an officer of Revenue and Customs has demanded payment from each such person of the sum payable by him/her/it;

c) that, the period of fourteen days beginning with the day on which the demand is made has expired without payment being made and

d) that the sum payable by each person is as specified in the Schedule to this Application.

[redacted] Officer of Revenue & Customs
29/07/11

C96

HM Revenue & Customs

Schedule Page 1 of Schedule comprising 2 Pages to Application Dated 29/07/11

Consec. Number	Reference	Name And Address	Amount Due Including any relevant Interest
882 /11	623/1044427	The Rangers Football Club Plc Ibrox Stadium 150 Edmiston Drive Glasgow G51 2XD	3018647 39
		CERTIFIED A TRUE COPY [redacted] OFFICER OF REVENUE & CUSTOMS 8 AUGUST 2011	

THIS PAGE IS THE SCHEDULE REFERRED TO IN MY FOREGOING APPLICATION DATED 29/07/11

[redacted]

Applicant

C05

SUMMARY WARRANT UNDER SECTION 126(6) OF THE FINANCE ACT 2008 FOR THE RECOVERY OF SUMS PAYABLE TO THE COMMISSIONERS FOR HER MAJESTY'S REVENUE AND CUSTOMS

(Place) Glasgow. (Date) 1 August 2011

The Sheriff having considered the application dated 29/07/11 by [redacted] Officer of Revenue & Customs, Enforcement & Insolvency, Elgin House, 20 Haymarket Yards, EDINBURGH EH12 5WT along with certificate produced, grants a summary warrant authorising the recovery of the amount payable by each person specified in the application by all lawful execution.

Sheriff

CERTIFIED A TRUE COPY

[redacted]

OFFICER OF REVENUE & CUSTOMS

8 AUGUST 2011

719

(NRDK) ,

CHARGE FOR PAYMENT OF MONEY

in the action

[redacted] Officer of Revenue & Customs, Enforcement & Insolvency, Elgin House, 20 Haymarket Yards, EDINBURGH EH12 5WT, APPLICANT.

against

The Rangers Football Club Plc, Ibrox Stadium, 150 Edmiston Drive, Glasgow, G51 2XD, DEBTOR(S)

To: The Rangers Football Club Plc, Ibrox Stadium, 150 Edmiston Drive, Glasgow, G51 2XD

On the First day of August, Two Thousand and Eleven years a Summary Warrant against you was granted in the Sheriff Court at Glasgow for payment of a sum of money in the above action.

I, Stuart Sinclair, Sheriff Officer, 16 Royal Exchange Square, Glasgow by virtue of the Summary Warrant, in Her Majesty's Name and authority and in the name and authority of the Sheriff charge you to pay the total sum due as set out below within fourteen days after the date of this charge to HM Revenue & Customs, Debt Management & Banking, Enforcement & Insolvency, Elgin House, 20 Haymarket Yards, Edinburgh, EH12 5WT, (Reference: B1663Z/2011/RML (623/1044427)).

If you do not pay this sum within fourteen days you are liable to have further action taken against you including arrestment in execution and the attachment and auction of articles belonging to you. You are also liable to be liquidated, if the same be competent.

This charge is served on you today by me, by leaving it in the hands of Amanda Miller (P.A. to Craig Whyte) and is witnessed by Ian Young, 16 Royal Exchange Square, Glasgow.

Dated the Tenth day of August, 2011.

WITNESS

SHERIFF OFFICER

Principal Sum	£	3,018,647.39
TOTAL	£	3,018,647.39
Less paid to account or adjusted	£	0.00
	£	3,018,647.39
Expenses of Sheriff Officer Charge Fee	£	48.80
Other outlays in connection with service of charge	£	0.00
TOTAL SUM DUE	£	3,018,696.19

IF YOU ARE NOT SURE WHAT TO DO YOU SHOULD CONSULT A SOLICITOR, CITIZENS' ADVICE BUREAU OR OTHER LOCAL ADVICE CENTRE IMMEDIATELY.

We are instructed in this action by HM Revenue & Customs, Debt Management & Banking, Enforcement & Insolvency, Elgin House, 20 Haymarket Yards, Edinburgh, EH12 5WT, Telephone No: 0131 346 5935, to whom all payments and correspondence should be directed quoting reference B1663Z/2011/RML (623/1044427)

Email: sheriffofficers@walkerlove.com
Web: www.walkerlove.com

WALKER/LOVE
Messengers-at-Arms & Sheriff Officers

INVESTOR IN PEOPLE

710

(NRDK)

EXECUTION OF CHARGE

UPON the Tenth day of August, in the year Two Thousand and Eleven at 10:31 am, I, Stuart Sinclair, SHERIFF OFFICER, 16 Royal Exchange Square, Glasgow, by virtue of a Summary Warrant, granted at Glasgow on the First day of August, Two Thousand and Eleven years in the action, [redacted] Officer of Revenue & Customs, Enforcement & Insolvency, Elgin House, 20 Haymarket Yards, EDINBURGH EH12 5WT, APPLICANT, against The Rangers Football Club Plc, Ibrox Stadium, 150 Edmiston Drive, Glasgow, G51 2XD, DEBTOR(S), passed, and in Her Majesty's name and authority and in name and authority of the Sheriff lawfully charged the said The Rangers Football Club Plc, DEBTOR(S), to make payment of the within mentioned sum or sums of money and expenses, and that to HM Revenue & Customs, Debt Management & Banking, Enforcement & Insolvency, Elgin House, 20 Haymarket Yards, Edinburgh, EH12 5WT, within fourteen days after the date of this charge under the pains therein expressed.

This I did by leaving a full copy of the Schedule of Charge hereto attached, in a sealed envelope, for the said Debtors in their place of business at Ibrox Stadium, 150 Edmiston Drive, Glasgow, G51 2XD, in the hands of Amanda Miller (P.A. to Craig Whyte), an employee therein, and that directed for their use and behoof, in presence of Ian Young, 16 Royal Exchange Square, Glasgow, WITNESS, hereto with me subscribing.

WITNESS

SHERIFF OFFICER
16 Royal Exchange Square
Glasgow
G1 3AB
0141 248 8224

Email: sheriffofficers@walkerlove.com
Web: www.walkerlove.com

WALKER/LOVE
Messengers-at-Arms & Sheriff Officers

DAVIDSON PEOPLE

IN THE COURT OF SESSION

UNTO THE RIGHT HONOURABLE THE
LORDS OF COUNCIL AND SESSION

INVENTORY OF PRODUCTIONS ON BEHALF OF THE RESPONDENT

THE PETITION OF

RANGERS FOOTBALL CLUB PLC

for

SUSPENSION

AND

INTERIM SUSPENSION

2011

OFFICE OF THE ADVOCATE GENERAL
ROOM GG-76
VICTORIA QUAY
EDINBURGH

tax justice network

Annex VIII – Rangers shareholders' circular

If you have sold or otherwise transferred all of your shares in The Rangers Football Club P.L.C., please forward this document as soon as possible to the purchaser or transferee, or to the stockbroker, bank or other agent through whom the sale or transfer was effected, for delivery to the purchaser or transferee. If you have sold or otherwise transferred only part of your holding in The Rangers Football Club P.L.C., you should retain this document.

The Rangers FC Group Limited

(formerly known as Wavetower Limited)

(Incorporated in England with registered number 07380537)

Circular to the shareholders of The Rangers Football Club P.L.C.

providing

Information on The Rangers FC Group Limited and
its acquisition of 92,842,388 ordinary shares of 10 pence each
in The Rangers Football Club P.L.C.

Contents

Part I

Letter from Craig Whyte, Chairman of The Rangers FC Group Limited

Directors

Craig Thomas Whyte, Chairman
Philip John Betts, Director
Andrew Charles Peter Ellis, Director

The Rangers FC Group Limited
4 Bedford Row
London WC1R 4DF

3 June 2011

Dear Shareholder of The Rangers Football Club P.L.C. (the "Club")

Following the announcement made by The Rangers FC Group Limited ("The Rangers FC Group") on 6 May 2011, in relation to its acquisition of 92,842,388 ordinary shares of 10 pence each, representing approximately 85.3 per cent. of the Club's issued share capital (the "Acquisition"), and the subsequent announcement made on 13 May 2011, I am delighted to write to you setting out information in relation to The Rangers FC Group, the Acquisition and certain other information required pursuant to The Takeover Code, including plans for the Club going forward.

The Rangers FC Group

The Rangers FC Group was incorporated on 17 September 2010 under the name of Wavetower Limited for the purpose of the Acquisition. On 12 May 2011, Wavetower Limited changed its name to The Rangers FC Group Limited. The directors of The Rangers FC Group are Phil Betts, Andrew Ellis and me. Pursuant to the Acquisition, Phil Betts and I have been appointed as directors of the Club. Further details regarding Phil Betts, Andrew Ellis and me are set out in Part IV of this document.

The Rangers FC Group is wholly owned by Liberty Capital Limited ("Liberty"), a company incorporated in the British Virgin Islands. Liberty is wholly owned by me. The Rangers FC Group has not traded since incorporation other than in connection with the Acquisition and has not produced audited financial information. The Rangers FC Group has called up share capital of £1.

The Rangers FC Group acquired its shares in the Club from Murray MHL Limited (the "Vendor") on 6 May 2011.

The Acquisition

The Acquisition occurred on 6 May 2011 and was announced by The Rangers FC Group and the Club on that date. The consideration for the Acquisition was £1, satisfied in full in cash.

The principal terms of the Acquisition are set out in the sale and purchase agreement entered in to between The Rangers FC Group, Liberty and the Vendor (the "Agreement"). Under the terms of the Agreement, The Rangers FC Group has made various undertakings in relation to the Club.

A summary of the material terms of the Agreement are set out in Part III of this document.

Dispensation from obligations under Rule 9 of the Takeover Code to make a general offer in cash

Under Rule 9 of the Takeover Code, if any person acquires an interest in shares which, when taken together with shares in which he and persons acting in concert with him are already interested, carry 30 per cent. or more of the voting rights of a company which is subject to the Code, that person is normally required to make a general offer in cash to all shareholders in the company at the highest price paid by him, or any person acting in concert with him, for an interest in such shares within the preceding 12 months.

As announced on 6 May 2011 and with the consent of the Independent Board Committee of the Club and as a consequence of the consideration for the Acquisition being £1, the Takeover Panel has granted The Rangers FC Group a dispensation from making an offer as would otherwise be required.

Future Plans

As required by the Takeover Panel, where The Rangers FC Group makes any statement regarding any course of action it intends to take, such statement will be considered to apply for a period of 12 months from the date of this document. It is The Rangers FC Group's intention to:

- continue to run the Club as a football club from Ibrox Stadium in Glasgow. It is anticipated that there will be no likely repercussions on employment and the locations of the Club's place of business, nor is it the intention of The Rangers FC Group to redeploy any of the fixed assets of the Club;

- not make any changes in respect of the continued employment of the employees and management of the Club and of its subsidiaries, including material change in their terms of employment; and

- maintain the Club's listing on PLUS Markets for at least a year from the date of the Acquisition.

As a keen Rangers supporter I look forward to helping the Club secure its future as a leading force in Scottish and European football.

Yours sincerely

Craig Whyte
Chairman

Part II

The following is the full text of a statement made by the Independent Board Committee of The Rangers Football Club P.L.C. on 6 May 2011

"Further to today's statement from Wavetower Limited ("the acquirer"), the Independent Board Committee of The Rangers Football Club P.L.C. ("the Club"), comprising Alastair Johnston, Martin Bain, John Greig, John McClelland and Donald McIntyre ("IBC") would like to make the following statement:

In recent weeks the IBC has been engaged with the acquirer and has secured an enhanced financial commitment from Wavetower for future investment into the Club. The decision on the sale and purchase of the majority shareholding in the Club firmly and ultimately rests between Murray MHL Limited ("MHL") and Lloyds Banking Group ("LBG").

Although the IBC has no power to block the transaction, following its enquiries, the IBC and Wavetower have differing views on the future revenue generation and cash requirements of the Club and the IBC is concerned about a lack of clarity on how future cash requirements would be met, particularly any liability arising from the outstanding HMRC case.

Wavetower is purchasing MHL's 85% shareholding in the Club for £1 and the Club's indebtedness with LBG is to be assigned to Wavetower. This share transaction would ordinarily trigger a requirement on Wavetower under Rule 9 of The Takeover Code for a mandatory offer to be made to the other shareholders. Given this transaction structure and following discussions with the Takeover Panel, the IBC considers there to be no purpose in the acquirer making such an offer to acquire all other shareholdings at effectively nil value per share. Accordingly the IBC has agreed that the offer period for the Club will now end.

In agreeing that no offer should be made to all shareholders the IBC has insisted that the acquirer issues a document to all shareholders setting out the full terms of the transaction, comprehensive details on the acquirer and the sources of its funding and giving firm commitments to agreed future investment in the Club.

The IBC is committed to ensure that the transaction and future investment and funding proposals should be transparent to all the shareholders and supporters of the Club.

The Directors of The Rangers Football Club P.L.C. accept responsibility for this announcement."

Part III

Summary of material terms of the Acquisition

1. The Agreement, together with a separate side letter between The Rangers FC Group and the Club, contains a number of undertakings in relation to The Rangers FC Group's commitment to the Club and these are expressed to be enforceable by both the Club and the Vendor. The principal undertakings may be summarised as follows:

   (a) if the Club has not suffered an insolvency event within 90 days of the Club's appeal in relation to the tax claim brought against the Club by HM Revenue & Customs (the "Tax Case") being finally determined, then The Rangers FC Group will either waive the debt that it has acquired or convert it into equity by way of an issue of new voting ordinary shares in the Club. The acquisition of the debt by The Rangers FC Group is described further at paragraph 2 below. However, The Rangers FC Group has separately undertaken to the Club that it will waive the debt that it has acquired and not exercise its option to convert it into equity as provided for in the Agreement;

   (b) The Rangers FC Group has undertaken to provide £5,000,000 for investment in the playing squad;

   (c) The Rangers FC Group has stated its intention to invest, or procure an investment of, £20 million by 2016 for investment in the playing squad. If, as part of any player acquisition, the Club agrees to make a transfer payment in a future year before 2016, The Rangers FC Group will be obliged to invest cash to cover such transfer payment, up to £5 million per year; such amounts coming out of the £20 million investment that The Rangers FC Group has stated its intention to invest;

   (d) The Rangers FC Group has undertaken to provide or procure the provision of up to £5,000,000 of additional working capital facilities to the Club;

   (e) The Rangers FC Group is to contribute to the Club the amount required to meet a liability owed by the Club to HM Revenue & Customs in relation to a discounted option scheme tax;

   (f) The Rangers FC Group is to provide £1.7 million to the Club to fund capital expenditure in relation to improving kitchen and public address equipment at the stadium and meeting other necessary or reasonable capital expenditure required in the ordinary course;

   (g) The Rangers FC Group undertakes that, until the debt has been waived, the Club will not be required to lend money to The Rangers FC Group or grant security in respect of The Rangers FC Group's borrowings unless the borrowing (and the granting of the security in relation to it) is principally for the Club's benefit; and

   (h) a breach of any of the undertakings given by The Rangers FC Group in the Agreement will result in the debt acquired being automatically extinguished. The terms on which the debt would be extinguished are to be agreed by the parties at the relevant time.

2. Until such time as the debt acquired by The Rangers FC Group is either waived or converted into equity, if the Club suffers an insolvency event or is unable to pay its debts as they fall, the debt acquired by The Rangers FC Group shall be deemed to be increased by an amount equal to the amounts contributed by The Rangers FC Group as set out in paragraphs 1 (b), (e) and (f) above.

Part IV

Additional Information

Responsibility statement

The directors of The Rangers FC Group, whose names appear on page 3, accept responsibility for all information contained in this document except for the information set out in Part III. To the best of the knowledge and belief of the directors of The Rangers FC Group (who have taken all reasonable care to ensure that such is the case), the information contained in this document for which they accept responsibility is in accordance with the facts and does not omit anything likely to affect the import of such information.

Further disclosure pursuant to The Takeover Code

Craig Whyte, aged 40, is a Scottish entrepreneur and investor born in Motherwell. He built his career on his expertise as a turnaround specialist financing and managing established businesses experiencing cashflow difficulties. He is founder and chief executive of Liberty Capital Limited, which currently has investments across several market sectors including technology, financial services, ticketing and commodities trading, with operations in the UK, the Netherlands, Switzerland and France. He also holds interests in a large number of other companies specialising in areas such as finance, corporate recovery, investment and stockbroking.

Phil Betts, aged 48, has over 30 years' experience in the banking and finance industry with particular expertise in asset finance. He started his career with Midland Bank before moving to Royscot Trust Plc as a hire purchase and leasing specialist, arranging funding facilities for SMEs across a number of different industries. Phil then moved to Fraser Russell chartered accountants (now Baker Tilly) as their in-house asset finance specialist advising clients on fixed asset purchases and suitable funding mechanisms. In 2005, Phil formed Primary Asset Finance LLP, which specialises in refinancing and restructuring companies, and has helped many businesses to raise funding and worked closely with them to support their turnaround.

Andrew Ellis, aged 44, has significant experience at director level at professional football clubs, having been a board member at Queens Park Rangers and Northampton Town. Andrew's area of expertise is UK residential and commercial property. In 1987 he founded a Knightsbridge-based property company which he continues to run today. He also acts as a consultant to high net worth individuals on domestic and overseas property developments.

No other person is acting in concert with The Rangers FC Group.

There are no irrevocable commitments or letters of intent which The Rangers FC Group or any person acting in concert with The Rangers FC Group has procured in relation to the relevant securities of the Club.

There are no agreements, arrangements or understandings (including compensation arrangements) in existence between The Rangers FC Group or any person acting in concert with it and any of the directors, recent directors, shareholders or recent shareholders of the Club, or any person interested or recently interested in shares of the Club, having any connection with or dependence upon the Acquisition.

No agreement, arrangement or understanding exists whereby the legal or beneficial ownership of any of the shares in the Club acquired by The Rangers FC Group from the Vendor will be transferred to any other person.

The emoluments of the directors of The Rangers FC Group will not be affected by the Acquisition or by any other associated transaction.

Documents Available for Inspection

Copies of the following documents will be available for inspection for a period of one month from the date of this document at (i) the The Rangers FC Group's registered office at 4 Bedford Row, London WC1R 4DF during normal business hours on any weekday (excluding Saturdays, Sundays and public holidays) and (ii) on the Club's website at www.rangers.co.uk:

(a) a copy of this document; and

(b) the Memorandum and Articles of Association of The Rangers FC Group.

3 June 2011

tax justice network

Annex IX Rangers correspondence on the payments of the tax liability

MCR BUSINESS CONSULTING

43 - 45 Portman Square
London W1H 6LY
t +44 (0)20 7487 7240
f +44 (0)20 7487 7299
www.mcr.uk.com

Our ref: DG/MFB/OR/PJE022/1189919

Your ref: 809/48190 12881/LBT1/KRM

Strictly Private and Confidential

Mr K McCurrach
HM Revenue & Customs
Local Compliance
Large & Complex Businesses
Elgin House
20 Haymarket Yards
Edinburgh
EH12 5WN

When telephoning please ask for:
David Grier

e-mail:
dgrier@mcr.uk.com

Direct line:
020 7487 7247

6 June 2011

Dear Mr McCurrach

The Rangers Football Club Plc ("the Club")
HMRC Ref: 809/48190 12881/LBT1/KRM

1. Introduction

1.1 I write further to your letter of 20 May 2011 and our subsequent meeting at the Club on 31 May 2011 in order to provide an interim update and proposal in respect of the Club's PAYE liability for 2000/01 to 2002/03 (as detailed in your letter of 31 May 2011) ("the Liability").

1.2 In formulating this update, we have had discussions with the Club's management and the new owners and have reviewed the following areas:

- statutory accounts for the two years ended 31 June 2010;
- management accounts for the 10 months ended 30 April 2011; and
- the Club's short term cash flow forecast for the 13 weeks ended 26 August 2011.

2. Background and recent developments

2.1 As discussed during our meeting and recent telephone conversations, following the recent takeover of the Club's ultimate new owners, Liberty Capital Limited ("Liberty") on 6 May 2011, we were engaged by Liberty to assist it in reviewing various aspects of the Club's current financial position.

2.2 As part of our remit, we have conducted a review of the Club's projected short term cash flow and working capital position over the next 13 weeks and have been requested by the Club to liaise with HM Revenue & Customs ("HMRC") on its behalf.

2.3 From our initial review and findings, whilst the takeover of the Club has stabilised its position somewhat given the previous concerns and potential actions of Lloyds Banking Group (who have now been largely repaid by the new owner), the Club no

longer has the benefit of a working capital facility and any funding requirements in excess of the Club's revenue streams is in effect a requirement against Liberty.

2.4 Whilst the work that we and Liberty's other advisors are conducting continues, the Club and its owners are extremely mindful of the position of HMRC and its requirement to see progress and a formal repayment profile relating to the Liability.

2.5 We are in the process of liaising with the Club's finance team to understand and assess the Club's projected trading performance over the next 24 – 36 months. In the meantime, this update letter is to formalise the Club's proposal in respect of an interim payment on account of the Liability whilst a longer term repayment proposal is formulated.

3. Recent trading results

3.1 The Club's recent trading results are summarised below:

PROFIT & LOSS ACCOUNT OVERVIEW	Year ended 30/06/2009 STATUTORY £'000	Year ended 30/06/2010 STATUTORY £'000	10 months ended 30/04/2011 MANAGEMENT £'000
Turnover	**39,704**	**56,287**	**53,649**
Net operating expenses	(48,231)	(43,856)	(38,149)
Trading profit / (loss)	(8,527)	12,431	15,500
	(21.5%)	22%	29%
Amortisation of players	(8,798)	(7,339)	(6,774)
Operating profit / (loss)	(17,325)	5,092	8,726
	(43.6%)	9.0 %	16.3 %
Exceptional items	5,592	512	2,138
Profit / (loss) before interest and tax	(11,733)	5,604	10,864
Interest payable	(2,352)	(1,395)	(1,953)
Profit / (loss) before tax	**(14,085)**	**4,209**	**8,911**
Taxation	1,434	0	0
Profit after tax	**(12,651)**	**4,209**	**8,911**

3.2 The key points to note include the following:

- The Club has achieved net profitability in the current and previous financial years predominantly on the basis of its participation in the UEFA Champions League competition.

- Whilst the Club won the Scottish Premier League in May 2011, its entry and ultimate participation in the competition in the forthcoming 2011/12 season is not confirmed, with two qualifying games and two play off games to occur in July / August 2011.

- Gains and losses on player trading and the associated cash impact of same are impossible to project but, as can be seen in the above overview, these items have a significant impact on the overall profitability and cash generation of the Club (see exceptional items).

4. Short term cash flow forecast / payment on account

4.1 A full review is currently being undertaken by the new owners to ensure that maximum profitability and, ultimately, cash are driven out of the business to enable it to deal with its legacy creditor issues, including HMRC, as far as possible.

4.2 As noted above, a formal set of longer term forecasts which reflect the Club's restructured balance sheet and prospects for next season (potential UEFA Champions League competition) are not yet available but are currently being formulated.

4.3 In the meantime, we attach for your information and review the Club's short term cash flow forecast for the 13 weeks to 26 August 2011. As you will see, during this period the Club has a working capital requirement in excess of its current facilities which peaks at c£4m at the end of the above period.

4.4 The Club's only means of funding this requirement is on the basis that it receives sufficient financial support from its shareholders. As discussed, additional funding in excess of this requirement, towards a payment on account for the Liability that we have recently discussed will also therefore need to be provided by the Club's shareholders.

4.5 As noted above, the Club and its owners are conscious of the position of HMRC and its requirement to see a plan to have the Liability settled. Therefore, whilst our work with the Club's finance team to assess the longer term projections of the Club is finalised, the Club proposes to remit an initial payment on account of £200,000, payable to HMRC in respect of the Liability. This payment will be funded by the Club's shareholders.

4.6 The Club also proposes to revert to you by 17 June 2011 with a formal proposal in respect of the balance of the Liability once the longer term financial forecasts have been prepared.

4.7 We should be grateful if you would confirm whether this proposal is acceptable to you by return. Should you wish to discuss any aspect of this proposal, please do not hesitate to contact us. We look forward to hearing from you.

Kind regards

Yours sincerely

David Grier
Partner
MCR Business Consulting

Enc.

RANGERS FOOTBALL CLUB PLC
DRAFT CASH FLOW FORECAST TO 26 AUGUST 2011

Forecast week ending	3-Jun	10-Jun	17-Jun	24-Jun	1-Jul	8-Jul	15-Jul	22-Jul	29-Jul	5-Aug	12-Aug	19-Aug	26-Aug
	Actual £'000	Forecast £'000	Forecast £'000	Forecast £'000	Forecast £'000	Forecast £'000	Forecast £'000	Forecast £'000	Forecast £'000	Forecast £'000	Forecast £'000	Forecast £'000	Forecast £'000
Bank Opening Balance	2,255	2,383	(2,349)	2,619	333	253	1,209	911	(690)	(1,005)	(1,641)	(1,932)	(2,618)
Inflows													
UEFA & SPL distributions	0	0	5,344	0	0	0	0	0	0	0	0	0	0
Season ticket renewals	1,466	60	70	60	1,280	29	18	30	1,280	24	24	24	24
Sponsorships	0	0	0	0	600	900	0	0	0	300	0	0	0
Trade receipts	90	90	259	90	90	90	90	90	90	90	90	90	90
Matchday takings	15	0	0	0	0	150	100	200	200	100	200	200	100
Historic player sales	0	0	0	0	0	0	421	0	0	0	0	605	0
Receipts from Wavetower re CAPEX (Net of VAT)	35	0	0	0	247	0	0	0	628	0	0	13	13
Hospitality Renewals	0	0	0	0	323	0	0	0	0	0	0	0	0
Fast food bar profit	0	0	0	0	0	0	0	15	0	15	15	15	15
	1,606	150	5,673	150	2,540	1,169	629	335	2,198	529	329	947	242
Outflows													
PAYE	(1,052)	0	0	(1,874)	0	0	0	(1,791)	0	0	0	(1,140)	0
Net payroll & player loans	0	(785)	0	(430)	(1,085)	0	(135)	0	(1,038)	0	0	0	(1,000)
Trade payments	0	(615)	(600)	(100)	(500)	(100)	(700)	(100)	(500)	(100)	(600)	(100)	(660)
Nikica Jelavic transfer	0	(2,180)	0	0	0	0	0	0	0	0	0	0	0
Other Payments inc DD's	(264)	(178)	(105)	(32)	(287)	(113)	(20)	(45)	(20)	(190)	(20)	(20)	(20)
Ticketus payments	0	(976)	0	0	0	0	0	0	0	0	0	0	0
Essential CAPEX	(42)	0	0	0	(296)	0	0	0	(753)	0	0	(16)	(16)
Historic player acquisitions	0	0	0	0	0	0	0	0	0	(875)	0	0	0
Agents' fees	0	(37)	0	0	0	0	(72)	0	0	0	0	(357)	0
VAT	0	33	0	0	(202)	0	0	0	(202)	0	0	0	0
Other player payments	0	0	0	0	(250)	0	0	0	0	0	0	0	0
Interest	0	(144)	0	0	0	0	0	0	0	0	0	0	0
Fast food takings to catering Co	(120)	0	0	0	0	0	0	0	0	0	0	0	0
	(1,478)	(4,882)	(705)	(2,436)	(2,620)	(213)	(927)	(1,936)	(2,513)	(1,165)	(620)	(1,633)	(1,696)
Net cash flow	128	(4,732)	4,968	(2,286)	(80)	956	(298)	(1,601)	(315)	(636)	(291)	(686)	(1,454)
Bank Closing Balance	2,383	(2,349)	2,619	333	253	1,209	911	(690)	(1,005)	(1,641)	(1,932)	(2,618)	(4,072)

HM Revenue & Customs

Debt Management
Enforcement & Insolvency
Durrington Bridge House
Barrington Road
Worthing
West Sussex BN12 4SE

David Grier
Partner @ MCR
43-45 Portman Square
LONDON
W1H 6LY

(by e-mail)

Tel 01903 701016
Monday to Friday 8:00 to 17:00

Fax 01903 701401

www.hmrc.gov.uk

DX 90957 Worthing 3

Date 15th August 2011
Our ref 623 / 1044427
Your ref

Dear David

YOUR CLIENT: RFC

Thank you for your e-mail dated 12th August in respect of your above named client.

I can confirm that the proposed offer of payment is not acceptable to HMRC. The reasons why are as follows;

- The offer to pay over 3 years is too long
- The offer contains too many components which appear speculative in their nature
- I require sight of latest cashflow
- There is no scope to agree a reduction to previously applied charges and interest. Equally, there is no scope to suspend interest.

- In The Rangers FC Group Limited, circulation to shareholders, Part III containing a summary of material terms of the acquisition, the following is noted:

    - in section (d) it is claimed that, "The Rangers FC Group has undertaken to provide or procure the provision of up to £5,000,000 of additional working capital facilities to the club"

    - and in section (e), "The Rangers FC Group is to contribute to the Club the amount required to meet a liability owed by the Club to (HMRC) in relation to the discounted option scheme tax"

    I require evidence why the main shareholder is not able to honour the statements made to all shareholders as well as wider statements in the press about his wealth and his desire to secure the football future of Rangers Football Club. Sitting against this issue is continued expense on football matters (player acquisition and wage increases) to the detriment of HMRC and the current debt.

With regards to a conditional payment of £250,000, this will not be acceptable to HMRC. All payments will be accepted on a without prejudice basis. Given that the Club have agreed the liability is in fact due, and the interest is accruing on a daily basis, it is in the Club's best interest to make immediate payment. Can you confirm why the Club have not provided HMRC with two irrevocable mandates which will allow receipt of monies from the Scottish Premier League and Blackpool FC for example as initial and immediate payment to the arrear?

There remain serious concerns that The Club are not doing enough to make payment of the arrear to HMRC and I look forward to developing this matter further when we meet with a Director of the Club on the 22nd of August.

Lastly, I note that there is an intention to discuss the penalty with my colleague Mr McCurrach.

I look forward to hearing from you at the earliest opportunity. If the current situation persists, HMRC will give consideration to enforcement for non payment.

Yours Sincerely

Paul Gilhooley
Head of Enforcement & Insolvency Service

From: Ken Olverman
Date: 30 June 2011 at 15:47
Subject: Overdue Employee Payable/UEFA Return
To: Craig Whyte
Cc: Claire Rinkes

Craig,

The withheld contractual amounts due to Martin and Donald at June will require to be disclosed on the UEFA June return, they will be explained as being withheld due to the employee's suspension. Would not expect any issues from UEFA.

The 2.8m EBT proposed settlement also requires to be disclosed but is shown as a status of postponed (awaiting scheduling of payments).

I have asked Claire for the figures on MB/DCM.

SFA have seen the draft numbers relating to Player Transfers which are all clean and consistent with the accounting records. Jelavic transfer has been treated per the agreement.

If ok with above I will forward as soon as we have final June numbers.

Ken

From: **Andrew Dickson** [redacted]
Date: 7 December 2011
Subject: FW: PRIVATE & CO[redacted]
To: Ali Russell <AliRussell@rangers.co.uk>
Cc: Craig Whyte <CraigWhyte@rangers.co.uk>

Ali

I refer to attached email, I have asked Stephen and Carol to get Ramsay's view on this.

We have had no press calls on this and again I have concerns that if the SFA issue this as a general release it will raise the whole issue again and indeed add to speculation about a licence for next season.

Please can I have your thoughts .

Regards

Andrew

From: Stephen Kerr
Sent: 07 December 2011
To: Andrew Dickson; Carol Patton
Subject: RE: PRIVATE & CONFIDENTIAL

And the media follow up question today once statement is released will be - Will Rangers get a licence for next season?

From: Stewart Regan [mailto:Stewart.Regan@scottishfa.co.uk]
Sent: 07 December 2011
To: Ali Russell; Andrew Dickson
Subject: PRIVATE & CONFIDENTIAL
Importance: High

** Confidential **
** High Priority **

Ali/Andrew

Further to my discussion yesterday with Andrew on the matter of Rangers FC's European licence I would like to release the following statement. I believe this will be in the interest of both the club and ourselves and I hope you agree. Please can you confirm that you are happy with the content. If so, I would propose to issue this later today at an agreed time with yourselves.

Thanks
Stewart

In light of persistent speculation across all media, the Scottish FA would like to clarify the position in regard to Rangers FC's licence to play in Europe as governed by Article 50 of the UEFA Regulations.

It is noted from the report submitted to the Licensing Committee by Rangers FC's advisors Grant Thornton UK LLP, dated 30th March 2011,
that: "All the recorded payroll taxes at 31 December 2010 have, according to the accounting records of the Club since that date been paid in full by 31 March 2011, with the exception of the continuing discussion between the Club and HM Revenue and Customs in relation to a potential liability of £2.8m associated with contributions between 1999 and 2003 into a discounted option scheme. These

amounts have been provided for in full within the interim financial statements."

Since the potential liability was under discussion by Rangers FC and HM Revenue & Customs as at 31st March 2011, it could not be considered an overdue payable as defined by Article 50.

We are satisfied that the evidence from all parties complied with Article 50 and, on that basis, a licence was awarded for season 2011-12.

Add editor's notes. (Include Article 50 here from UEFA Regulations)

Stewart M. Regan
Chief Executive
The Scottish F.A.

From: **Craig Whyte** <ctw@libertycapital.biz>
Date: 7 December 2011
Subject: Re: PRIVATE & CONFIDENTIAL
To: Andrew Dickson <AndrewDickson@rangers.co.uk>
Cc: Ali Russell <AliRussell@rangers.co.uk>, Craig Whyte <CraigWhyte@rangers.co.uk>

It would be crazy for them to put this out. Ali, please call me on this.

Sent from my iPad

From: **Ramsay Smith** <Ramsay@mediahouse.co.uk>
Date: 7 December 2011
Subject: RE: PRIVATE & CONFIDENTIAL
To: Stephen Kerr <StephenKerr@rangers.co.uk>, Carol Patton <patton_carol@rangers.co.uk>, Ali Russell <AliRussell@rangers.co.uk>, Craig Whyte <ctw@libertycapital.biz>, Craig Whyte <CraigWhyte@rangers.co.uk>

All

We should put some pressure on the SFA from a high level, from Ali or Andrew to say we do not believe this is a good idea the SFA putting out such as statement. It stirs up the issue again. What they should do is if they get a legitimate media inquiry respond to it by saying there is no issue whatsoever with Rangers licensing arrangement with the SFA.

If they persist they will only cause issues for themselves as much as Rangers.

Ramsay

From: Ali Russell
Sent: 07 December 2011
To: Stewart Regan; Andrew Dickson
Cc: Ramsay Smith (Ramsay@mediahouse.co.uk); Stephen Kerr (StephenKerr@rangers.co.uk)
Subject: RE: PRIVATE & CONFIDENTIAL

Stewart,

Tried to phone you. Would prefer no comment or the following

“We have looked at this matter and there is no issue with the licence granted to Rangers from the SFA. “

I look forward to speaking to you later,

Ali

From: **Ali Russell** <AliRussell@rangers.co.uk>
Date: 7 December 2011
Subject: RE: PRIVATE & CONFIDENTIAL
To: Craig Whyte <ctw@libertycapital.biz>, Andrew Dickson <AndrewDickson@rangers.co.uk>, Fiona Goodall <FionaGoodall@rangers.co.uk>
Cc: Craig Whyte <CraigWhyte@rangers.co.uk>, Ramsay@mediahouse.co.uk, StephenKerr@rangers.co.uk, Gary Withey <gary.withey@collyerbristow.com>

All sorted - Held until further notice and I have agreed we will meet Stewart and Campbell for dinner in the next couple of weeks to discuss bigger issues. I also made it clear we were very unhappy with the approach the SFA took last week! Hopefully we can move forward now.

Kind Regards,

Ali

Subject: Dinner with Stewart Regan/Campbell Ogilvie/Craig Whyte

Date: Thu, 15 Dec 2011 11:31:30

From: Ali Russell <AliRussell@rangers.co.uk>

To: <CraigWhyte@rangers.co.uk>

Craig, just to confirm that the dinner with Stewart Regan/Campbell Ogilvie, yourself and Ali will be on the 20th @ 7.00pm.

I have booked the Glengoyne private dining in Hotel du Vin, and also provisionally booked a hotel room for you (if you'd require?)

Fiona
